



# The Defence of India Act

(ACT No XXXV OF 1939)

&

# The Defence of India Rules

AS AMENDED UP TO 15th MARCH 1944.

&

The Orders of the Government of India made  
thereunder.

With

Exhaustive and Explanatory Notes,

BY

M C. DATTA, B A., LL B., Advocate.

1944

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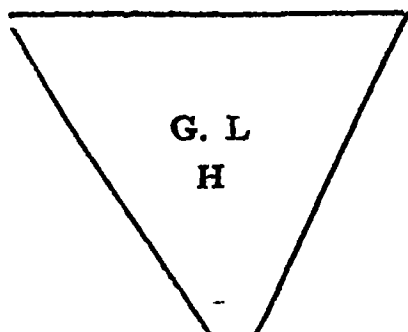
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## **PART FIRST**

**—: 0 :—**

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**Owing the Defence of India Act and the Defence of India  
Rules as amended upto 15th March 1944.**

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**M/S. Bansī Dhar Kapur and Sons supplied ten reems for  
this book at controlled rates,**

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## PART FIRST

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Owing the Defence of India Act and the Defence of India  
Rules as amended upto 15th March 1944.

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## ERRATA

Page 15 line 26 for the word " fine " read " live."

Page 20 Line 2 of Marginal note to S 10 for the word,  
" ecial " read " special "

Page 32 Part XII after Rule " 77 add, " 77A. Restrictions  
on certain powers of local authorities "

Page 32 Part XII after Rule 80 A add, " 80 B Control of  
Agriculture "

Page 32 XII After Rule 81-F add, " 81-G Modification of  
annual list of members returnable under section  
32 of Act VII of 1913 "

Page 83 Part XIV after Rule 90 B add, " 90-C. Control of  
Agriculture "

Page 33 Part XIV After Rule 94 B add " 94-C. Pro-  
hibition of Budla "

Page 34 Part XVII After Rule 120-B add, " 124-C.  
Power to impose Civil duties on servants of the  
Crown "

Page 35 Part XVIII after Rule 130-A add, " 130B Special  
powers regarding fines

Page 40 Line 14 for the letter " 3 " read " an. "

Page 71 line 2 for the word " datained " read " detained."

Page 99 For Foot note No 1 substitute " Substituted by D D.  
Notification No 5 D C (27)/43 dated the 26th Feb. 1944.

Page 202 line 12, for the letters and brackets "(12)" read "(2)"

Page 248 line 28, after the words " and a contravention of"  
add " any order made under "

Page 249 line 6, for the words " any order " read " orders. "

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# **THE DEFENCE OF INDIA ACT, 1939.**

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# THE DEFENCE OF INDIA ACT

[Act No. XXXV of 1939, as amended upto 15th March 1944]

— 0 :—

*(Received the assent of Governor-General on 29th September 1939 and published in the 'Gazette of India' dated the 30th September 1939).*

An act to provide for special measures to ensure the public safety and interest and the defence of British India and for the trial of certain offences.

And whereas the Governor-General in his discretion has declared by proclamation under sub-section (1) of section 102 of the Government of India Act, 1935, that a grave emergency exists whereby the security of India is threatened by war,

It is hereby enacted as follows.—

## CHAPTER I.

### PRELIMINARY

1 (1) This Act may be called the Defence of India Act, 1939  
Short title, extent (2) It extends to the whole of British India  
commencement and and it applies also—  
duration.

(a) to British subjects and servants of the Crown in any part of India,

(b) to British subjects who are domiciled in any part of India wherever they may be,

(c) in respect of the regulation and discipline of any naval, military or air force raised in British India, to members of, and persons attached to, employed with, or following that force, wherever they may be; and

(d) to, and to persons on, ships and aircraft registered in British India wherever they may be

(3) This section shall come into force at once, and the remaining provisions of this Act shall come into Force in such area and on such date or dates as the Central Government may, by notification in the Official Gazette appoint

(4) It shall be in force during the continuance of the present

war and for a period of six months there after.

*Notes —*

This Act was passed to meet the existing War Emergency and for efficient prosecution of war on the lines of the Defence of India (Criminal Law Amendment) Act, 1915, with such adaptations as were necessary to suit the present conditions. It replaces the Defence of India ordinance 1939.

This section came into force on 29th September, 1939, and the remaining provisions of the Act came into force in whole of British India on 14th November 1939, vide Defence Department Notification No. 253-OR/39, dated 14th November, 1939.

British India has no where been defined in this Act. Therefore in its general sense it denotes the territories which are or may become vested in His Majesty

## CHAPTER II.

### EMERGENCY POWERS

2. (1) The Central Government may, by notification in the Official Gazette make such rules as appear to it to be necessary or expedient for securing the defence of British India, the public safety, the maintenance of public order or the efficient prosecution of war, or for maintaining supplies and services essential to the community.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), the rules may provide for, or may empower any authority to make orders providing for, all or any of the following matters, namely :—

(i) ensuring the safety and welfare of His Majestys' forces, ships and aircraft, and preventing the prosecution of any purpose likely to prejudice the operations of His Majestys' forces or the forces of His Majesty's allies;

(ii) prohibiting anything likely to prejudice the training, discipline or health of His Majestys' forces ;

(iii) preventing any attempt, to temper with the loyalty of persons in, or to dissuade (*otherwise than with the advice given in good faith to the person dissuaded for his benefit or that of any member of his family or any of his dependants*) persons from entering the service of His Majesty ,

(iv) preventing anything likely to assist the enemy or to prejudice the successful conduct of war, including —

(a) communications with the enemy or agents of the enemy,

(b) acquisition, possession without lawful authority or excuse and publication of information likely to assist the enemy,

(c) contribution to, participation in, or, assistance in, the floating of loan raised by or on behalf of the enemy, and,

(d) advance of money to, or contracts or commercial dealings with, the enemy, enemy subjects or persons residing, carrying on business, or being, in enemy territory,

(v) preventing the spreading *without lawful authority or excuse* of false reports or the prosecution of any purpose likely to cause disaffection or alarm, or to prejudice His Majestys' relations with foreign powers, *or with states in India, or to prejudice the maintenance of peaceful conditions in the tribal areas, or to promote feelings of enmity and hatred between different classes of His Majestys' subjects,*

*Explanation—To point out, without malicious intention, and with an honest view to their removal matters which are producing, or have a tendency to produce, feelings of enmity or hatred between different classes of His Majestys' subjects does not amount to promoting such feelings within the meaning of this clause.*

(vi) requiring the publication of news and information,

(vii) regulating the conduct of persons in respect of areas the control of which is considered necessary or expedient, and the removal of persons from such areas ,

(viii) requiring any person or class of persons to comply with a scheme of defence ,

(ix) ensuring the safety of ports, dockyards, lighthouses, lightships, airdromes, railways, telegraphs, post-offices, signalling apparatuses, and all other means of communication, sources of water supply, works for the supply of water, gas or electricity and any other place or thing the protection of which is necessary for the defence of British India ;

\* (x) the apprehension and detention in custody of any person whom the authority empowered by the rules to apprehend or detain as the case may be suspects, on grounds appearing to such authority to be reasonable, or being of hostile origin, or of having acted, acting or being about to act, or being likely to act in a manner prejudicial to the public safety or interest, the defence of British India, the maintenance of public order, His Majestys' relations with foreign powers or Indian States, the maintenance of peaceful conditions in tribal areas or the efficient prosecution of the war, or with respect to whom such authority is satisfied that his apprehension and detention are necessary for the purpose of preventing him from acting in any such prejudicial manner, the prohibition of such person from entering or residing or remaining in any area ; and the compelling of such person from entering or residing or remaining in any area, and the compelling of such person to reside and remain in any area, or to do or abstain from doing anything ;

(xi) the control of persons entering, departing from, or travelling in, British India, and of foreigners residing or being in British India ;

\* 1. Substituted by Defence of India Ordinance XIV of 1943 for the original clause which ran as under.

" (x) the apprehension and detention in custody of any person reasonably suspected of being of hostile origin or of having acted, acting or being about to act, in a manner Prejudicial to the Public safety or interest or to the defence of British India, the prohibition of such person from entering or residing or remaining in any area, and the compelling of such person to reside and remain in any area, or do, or abstain from doing anything "

(xii) prohibiting or regulating traffic, and the use of vessels, buoys, lights and signals, in ports and territorial, tidal, and inland waters,

(xiii) restricting the charter of foreign vessels;

(xiv) regulating the structure and equipment of vessels for the purpose of ensuring the safety thereof and of persons therein,

(xv) regulating work in dockyards and shipyards in respect of the construction and repairs of vessels,

(xvi) prohibiting or regulating the sailings of vessels from ports, traffic at aerodromes and the movement of aircraft, and traffic on railways, tramways and roads, and reserving and requiring to be adapted, for the use of the Central Government, all or any accommodation vessels, aircrafts, railways, tramways or road vehicles for the carriage of persons, animals or goods,

(xvii) impressment of vessels, aircrafts, and animals for transport,

(xviii) prohibiting or regulating the use of postal, telegraph or telegraphic services, including the taking possession of such services and the delaying, seizing, intercepting or interrupting of postal articles or telephonic or telegraphic messages,

(xix) regulating the delivery otherwise than by postal or telegraphic service of postal articles and telegrams,

(xx) the control of *agriculture* trade or industry for the purpose of regulating or increasing the supply of, and the obtaining of information with regard to, articles or things of any description whatsoever which can be used in connection with the conduct of war or for *maintaining supplies and services essential to the life of the community*,

(xxi) ensuring the ownership and control of mines by British Subjects,

(xxii) controlling the use or disposal of, or dealings in, coin, bullion, securities or foreign exchange,

(xxiii) the control of any road or pathway, waterway, ferry or bridge, river, canal or other source of water supply.

(xxiv) the requisitioning of any property, movable or immovable, including the taking possession thereof and the issue of any orders in respect thereof ;

(xxv) prohibiting or regulating the possession, use or disposal of—

(a) explosives, inflammable substances, arms and ammunition of war ;

(b) vessels ,

(c) wireless telegraphic apparatus ,

(d) aircraft, and

(e) photographic and signalling apparatus and any means of recording information ,

(xxvi) applying the provisions of the Sea Customs Act, 1878, and in particular section 19 thereof, to the prohibition or restriction of import or export of goods to a particular person or a particular class of persons ,

(xxvii) prohibiting or regulating the bringing into, or taking out of, British India and the possession, use or transmission of Ciphers and other secret means of communicating information ;

(xxviii) prohibiting or regulating the publication of inventions and designs ,

(xxix) preventing the disclosure of official secrets ;

(xxx) prohibiting or regulating meetings, assemblies, fairs and processions ;

(xxxi) preventing or controlling any use, *calculated to prejudice the public safety, the maintenance of public order, the defence of British India or the prosecution of war* of uniforms, flags and insignia and of anything similar there to ,

(xxxii) ensuring the accuracy of any report or declaration legally required of any person ,

(xxxiii) preventing the unauthorised change of names ;

(xxxiv) preventing anything likely to cause misapprehension in respect of the identity of any official person, official document or official property or in respect of the identity of any official

person, official document, or property purporting to be, or resembling an official person, official document or official property.

(xvii) entry into, and search of any place reasonably suspected of being used for any purpose prejudicial to the public safety or interest, to the defence of British India or to the efficient prosecution of war, and for the seizure and disposal of anything found there and reasonably suspected of being used for such purpose.

(3) The rules made under sub-section (1) may further—

(i) provide for the arrest and trial of persons contravening any of the rules,

(ii) provide that any contravention of, or any attempt to contravene, and any abetment of, or attempt to abet, the contravention of any of the provisions of the rules, or any order issued under any such provisions, shall be punishable with imprisonment for a term which may extend to seven years or with fine or with both ;

(iii) provide for the seizure, detention and forfeiture of any property in respect of which such contravention, attempt or abetment as is referred to in the preceding clause has been committed,

(iv) confer powers and impose duties —

(a) upon the Central Government or officers and authorities of the Central Government as respects any matter, notwithstanding that that matter is one in respect of which the provincial Legislature also has power to make laws ; and

(b) upon any provincial Government or officers and authorities of any provincial Government as respects any matter notwithstanding that that matter is one in respect of which the Provincial Legislature has no power to make laws ,

(v) prescribe the duties and powers of public servants and other persons as regards preventing the contravention of, or securing the observance of, the rules ,

(vi) provide for preventing obstruction and deception of, and disobedience to, any person acting and interference with any notice issued, in pursuance of the rules ,

(vii) prohibit attempts by any person to screen from punishment any one, *other than the husband or wife of such person*, contravening any of the rules ;

(viii) empower or direct any authority to take such action as may be specified in the rules or as may seem necessary to such authority for the purpose of ensuring the public safety or interest or the defence of British India ;

(ix) provide for charging fees in respect of the grant or issue of any license, permit, certificate or other document for the purpose of the rules.

(4) The Central Government may by order direct that any power or duty which by rule under sub-section (1) is conferred or imposed upon the Central Government shall in such circumstances and under such conditions if any, as may be specified in the direction be exercised or discharged :—

(a) by any officer or authority subordinate to the Central Government, or

(b) whether or not the power or duty relates to a matter with respect to which a Provincial Legislature has power to make laws, by any Provincial Government or by any officer or authority subordinate to such Government, or

(c) by any other authority.

(5) A Provincial Government may by order direct that any power or duty which by rule made under sub-section (1) is conferred or imposed on the Provincial Government, or which being by such sub-rule conferred or imposed on the Central Government, has been directed under sub-section (4) to be exercised or discharged by the Provincial Government, shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged by any officer or authority, not being (except in the case of a Chief Commissioners' province) an officer or authority subordinate to the Central Government.

Legislative changes:—This section is a reproduction of the provisions of the Defence of India Ordinance 1939. The words in italics were added by the present Act. The words “or with states” in clause (v) in sub-section (2) and the words “except



in the "province" in sub-section (5) were added by the Defence of India (Amendment) Act 1944. The words "used are likely to be used by the Central Government in clause (xx) were substituted for the word "any" by Ordinance No 48 of 1942. And clause (\*) of subsection (2) has been substituted by the Defence of India Ordinance No. XIV of 1943.

*Notes.*—This Act is not *ultra vires* of the Central Legislature and the rules framed under this section are also within the competence of the Central Government. A.I.R. 1941 Allahabad 321; 1941 A.L.J. 352 A.W.R. 1941 P 240, 196 I.C. 295. 42 Cr.L.J. 839, A.I.R. 1943 F.C. 1, A.I.R. 1943 Oudh, 227., A.I.R. 1943 Madras 714

But under clause (\*) of sub-section (2) as originally stood in the Act the Government made detention orders in the case of persons who were not reasonably suspected in the manner required by the para but the Government considered that they may do something hereafter but it was held in A.I.R. 1943 F.C. 1 that only a person about whom suspicions of the kind mentioned in the paragraph are reasonably entertained could not be ordered to be detained under rule 26 of the Defence of India Rules which was made under this clause and therefore rule 26 went beyond the rule making powers which the Legislature thought fit to confer upon the Central Government and for that reason was invalid. To avoid this handicap this clause has been substituted by the Defence of India Ordinance 1943 which is much too wide in its present scope.

**Bail**—Although the specified matters in this section do not include bail application, but it does not follow that the Central Government cannot make rules with regards to bail applications. If it considers that in the public interest it is necessary to do so, the general powers given in sub-section (1) cover sub-section (2). Sub-section (3) also gives the same power. A.I.R. 1942 Madras 221.

**Applicability**—Although courts of law ought to abstain from harsh and ungenerous criticism of acts done in good faith by those who bear the burden and responsibility of Government, especially in times of danger and crisis, they do not on that account get released

from the duty of seeing that the Executive Government does not seek to exercise powers in excess of those which the Legislature has thought fit to confer upon it, however drastic and far-reaching those powers may be and. however great the emergency which they are designed to meet, A. I. R. 1943 F. C. I. Intention, therefore is the necessary ingredient. A speech in connection with trade or industrial dispute, not adverse to war effort or seriously embarrassing Government, or where the object of the speech is to promote the welfare of the speaker and his fellow workers in a particular employment is not punishable under this Act. A. I. R. 1942 Madras, 427. So also the expression of opinion about the system of Government, which one is entitled to do, does not make a speech seditious by the mere fact that violent language has been used in good deal. A. I. R. 1942 F. C. 42

**Scope.**—This section authorises the punishments for attempts, offences and their abetment. Although a maximum punishment of imprisonment under sub-section (3) is given the imposition of fine is left unlimited.

3. Any rule made under section 2, and any order made under any such rule, shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.

**Notes.**—Being an emergency measure the provisions of this Act and the rules made thereunder might conflict with other provisions of law. In order to ensure the smooth working of this Act, this section provides that the provisions of this Act will be applicable in case of any contrary provision in any other law. Therefore the rules made under this Act will over rule the provisions of the Criminal Procedure Code A. I. R. 1941 Bom. 412

4. The Central Government may, by notification in the Official Gazette, direct by general or special order that any persons who, not being members of His Majesty's forces, are attached to, or employed with, or following those forces, shall be subject to naval, military or air force law, and thereupon such persons shall be subject to discipline, and liable to punishment for offences, under the Indian Air Force Act, 1932, as the case may require, as if they were included in such class of persons subject to any of those Acts as may be specified in the notification

5. (1) If any person, with intent to wage war against His Majesty or to assist any state at war with His Majesty, contravenes any provision of the rules made under section 2 or any order issued under any such rule, he shall be punishable with death, or transportation for life, or imprisonment for a term which may extend to ten years, and shall also be liable to fine.

(2) If any person —

(a) contravenes any such provision of, or any such rule or order, made under the Indian Air-craft Act, 1934, as may be notified in this behalf by the Central Government, or

(b) in any area notified in this behalf by a Provincial Government, contravenes any such provision of, or any such rule made under, the Indian Arms Act 1878, the Indian Explosives Act, 1884, or the Explosive Substances Act, 1908, as may be notified in this behalf by the Provincial Government,

he shall, notwithstanding anything contained in any of the aforesaid Acts or rules made there under, be punishable with imprisonment for a term which may extend to five years, or if his intention is to assist any state at war with His Majesty or to wage war against His Majesty, with death, transportation for life, or imprisonment for a term which may extend to ten years, and shall in either case also be liable to fine.

(3) For the purposes of this section, any person who attempts to contravene or abets or attempts to abet, or does any act preparatory to a contravention of, a provision of any law, rule or order, shall be deemed to have contravened that provision.

*Notes* — This section only provides enhanced punishments for offences which already are offences under the law. Not only it declares the enhanced punishment for those offences but it makes punishable the attempts and their abetments

6 During the continuance of this Act —

(1) Section 1 of the Geneva Convention Act, 1911 shall have effect in British India, as if in sub-section (1) thereof, for the words "shall be liable on summary conviction to a fine not exceeding ten pounds" the words "shall be punishable with imprison-

Temporary amend-  
ments of Acts

ment for a term which may extend to six months and shall also be liable to fine” had been substituted,

(2) section 5 of the Indian Official Secrets Act, 1923, shall have effect as if:—

(a) in sub-section (1) thereof, after the words, “in his possession or control” the words “any information likely to assist the enemy, as defined in the rules made under the Defence of India Act, 1939,” had been inserted, and after the words “in such a place” the words “or which relates to, or is used in, a protected area, as defined in the rules made under the Defence of India Act, 1939, or relates to anything in such an area,” had been inserted; and

(b) for sub-section (4) thereof, the following sub-section had been substituted, namely, —

“(4) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to five years, or if such offence is committed with intent to assist any state at war with His Majesty, or to wage war against His Majesty, with death, or transportation for life or imprisonment for a term which may extend to ten years, and shall in either case also be liable to fine”;

\*[(2A)] Section 12 of the Indian Official Secrets Act, 1923, shall have effect as if after clause (a) the following clause had been inserted namely.

“(aa) an offence under Section 5 shall be a cognizable and non-bailable offence.”

(8) the Indian Press (Emergency Powers) Act 1931, shall have effect as if in sub-section (1) of section 4 thereof, after clause (b), the following word and clause had been inserted, namely —

Or

(bb) directly or indirectly convey any “confidential information” any information likely to assist the enemy” or any “prejudicial report.” as defined in the rules made under the Defence of India Act, 1939, or are calculated to instigate the contravention of any of those rules,”;

(4) The Indian Aircraft Act, 1934, shall have effect as if—

(a) at the end of clause (r) of sub-section 2 of section 5 the following words had been inserted namely :-

"Including the taking of steps necessary to secure compliance with, or to prevent contravention of, the rules regulating such matters or, where any such rule has been contravened, to rectify, or to enable proceedings to be taken in respect of, such contravention",

(b) In clause (b) of sub-section (1) of section 8, for the words, brackets letters and figures "clause (h) or clause (i) of sub-section (2) of section 5." The words, brackets, letters and figures "clauses (d), (e), (h), (i), (k) or (l) of sub-section (2) of section 5, or the commission of an offence punishable under section 11," had been substituted,

(c) In section 11, after the words "in the air" the words "or in such a manner as to interfere with any of His Majesty's forces, ships or aircraft" had been inserted;

(d) In section 13, for the words, brackets, figures and letters "clause (i) or clause (l) of sub-section (2) of section 5" the words, brackets, figures and letters "clause (c), (d), (e), (h), (i), (j), (k) or (l) of sub-section (2) of section 5, or punishable under section 11" had been substituted, and

(e) Section 14 had been omitted, and

\*(5) (The Indian Navy (Discipline) Act, 1931, shall have effect as if in the Naval Discipline Act as set forth in the first schedule to that Act—

(a) In section 58, in regulation (1) and (16) for the word "fine" the word "three" in regulation (7) for the words "the president is a captain" the words, "president is a commander", and in regulation (15), for the word "four" the word "two" had been substituted,

\*. Substituted by the Defence of India (Amendment) ordinance 1942. (XXIII of 1942) for the original clause, (5) which runs as under —

(5) the Indian Navy (Discipline) Act—1934, shall have effect as if for section 90 of the Naval Discipline Act as set forth in the First Schedule to the first named Act the following section had been substituted namely :—

(b) for section 90 the following section had been substituted namely :—

“90. (1) If any person who would not otherwise be subject to this Act enters into an engagement with the Central Government to serve His Majesty—

(a) in a particular ship, or

(b) in such particular ship or in such ships as the officer Commanding the Indian Navy, or any officer empowered in this behalf by the Officer Commanding the Indian Navy, may from time to time determine, and agrees to become subject to this Act upon entering into the engagement, that person shall, so long as the engagement remains in force, and notwithstanding that for the time being he may not be serving in any ship, be subject to this Act, and the provisions of this Act shall apply in relation to that person as if, while subject to this act he belonged to His Majestys' Navy and were born on the books of His Majestys' ships in commission.

(2) The Central Government may by order direct that, subject to such exceptions as may in particular cases be made by or on behalf of the Officer Commanding in Indian Navy, persons of any such class as may be specified in the order shall, while subject to this Act by virtue of this section, be deemed to be officers, or petty officers as the case may be, for the purposes of this Act or of such provisions of this Act as may be so specified, and any such order may be varied or revoked by a subsequent order.”

\*(6) [The Motor Vehicles Act, 1939, shall have effect subject to the following modifications, namely :—

(a) Notwithstanding anything contained in section 62 of that Act a permit under that section may be granted, and shall be granted in any case in which the Provincial Government so directs, to be effective for a period exceeding four months,

(b) Notwithstanding anything contained in chapter IV of that Act, but without prejudice to the provisions of section 60, the transport authority which granted a permit may at anytime cancel the permit or may suspend it for such period as it thinks fit, if in

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\*Inserted by the Defence of Indian (ordinance) 1942. (XXIII. 1942).

the opinion of the transport authority it is no longer in the public interest that the service should continue and the vehicle or vehicles covered by the permit can be more usefully employed elsewhere; and the transport authority shall cancel or suspend a permit issued by it if so required by the Provincial Government;

(c) if in any particular case the Provincial Government thinks fit so to order, the authority empowered to grant a permit under Chapter IV of that Act shall not, in deciding to grant or refuse a permit, be found to take into consideration representations made by any person, authority or association other than the applicant, or to follow the procedure laid down in section 47, and may accept an application for a stage carriage permit or a public carrier's permit though made less than six weeks before the date on which it is desired that the permit shall have effect,

(d) The Provincial Government may exempt from all or any of the provisions of Chapter VI of that Act, all or any transport vehicles used or required for use in connection with work considered by the Provincial Government to be work connected with the defence of British India or the prosecution of war.]

7 (1) Notwithstanding anything contained in the Indian Tea Control Act, 1938, the Central Government may appoint any person to be an additional member of and to act as Chairman of, the Indian Tea Licensing Committee during the continuance of this Act, and on such appointment being made and until this Act ceases to be in force, the Chairman of the said Committee elected under section 5 of that Act shall cease to exercise the functions of Chairman,

(2) If in pursuance of any scheme for the control of import of Indian Tea into the United Kingdom, the Central Government considers it necessary or expedient so to do, it may by order direct the Indian Tea Licensing Committee to apportion the requirement of the United Kingdom among the tea estates in accordance with such principles as may be laid down in the order, and the said Committee shall comply with such order.

(3) If at any time during the continuance of this Act, the amendment referred to in the preamble to the Indian Tea Control

Act, 1938, is determined or otherwise ceases to be valid as between the parties thereto, the provisions of that Act shall, notwithstanding the said determination or invalidity of the agreement, continue in force.

Provided that nothing in this sub-section shall be construed as continuing the Indian Tea Control Act, 1938, in force after the 31st day of March 1943.

### CHAPTER III.

#### SPECIAL TRIBUNALS.

8. (1) The Provincial Government may for the whole or any part of the Province constitute Special Tribunals which shall consist of three members appointed by the Provincial Government.

(2) No person shall be appointed a member of special Tribunal unless he —

(a) is qualified under sub-section (3) of section 220 of the Government of India Act, 1935, for appointment as a Judge of a High Court . or

(b) has for a total period of not less than three years exercised, whether continuously or not, the powers under the Code of Criminal Procedure, 1898 (here after in this Chapter referred to as the Code) of any one or more of the following :—

(i) Sessions Judge, Additional Sessions Judge, Chief Presidency Magistrate, Additional Chief Presidency Magistrate.

(ii) District Magistrate, Additional District Magistrate.

(3) At least one member of a Special Tribunal shall be qualified for appointment there to under clause (a) of sub-section (2), and where only one member is so qualified under that clause, atleast one other member shall be qualified for appointment under clause (b) of that sub-section by virtue of having exercised powers exclusive of those specified in sub-clause (i) of the said clause (b)

Legislative changes.—This section is the same as occurred in the Defence of India Ordinance, No. 5 of 1939, except the italicised words which have been added by this Act.

Scope —This section is not mandatory but merely enabling the Provincial Government to constitute a Special Tribunal.



composed of persons possessing the qualifications set out in sub-section (2) A. I. R. 1943 Patna 245. (S. B.)

The qualifications for appointment as a Judge of a High Court are given in sub-section (3) of section 220 of the Government of India Act, 1935 which runs as —

“(3) A person shall not be qualified for appointment as a Judge of High Court unless he—

(a) is a barrister of England or Northern Ireland, of at least 10 years standing, or a member of the Faculty of Advocates in Scotland of at least 10 years standing; or

(b) is a member of the Indian Civil Service of at least 10 years standing, who has for at least three years served as, or exercised the powers of, a District Judge, or

(c) has for at least five years held a Judicial Office in British India not inferior to that of subordinate Judge, or a Judge of a small Court; or

(d) has for at least ten years been a pleader of any High Court, or of two or more such Courts in succession.

Provided that a person shall not, unless he is, or when first appointed to Judicial office was, a barrister, a member of the Faculty of Advocates or a pleader, be qualified for appointment as Chief Justice of any High Court constituted by letters patent unless he has served for not less than three years as a Judge of High Court.

In computing for the purpose of this sub-section the standing of a barrister or a member of the Faculty of Advocates, the period during which the person has held Judicial Office after he became a barrister, a member of the Faculty of Advocates or pleader, as the case may be, shall be included.

9 The Provincial Government may, by general or special order, direct that a special Tribunal shall try Jurisdiction of any offence—  
Special Tribunals.

(a) under any rule made under section 2, or

(b) punishable with death, transportation or imprisonment for a term which may extend to seven years,—triable by any court having jurisdiction within the local limits of the Special Tribunal and may in any such order direct the transfer to the special

Tribunal of any particular case from any other Criminal Court not being a High Court.

10. (1) A special Tribunal may take cognizance of offences without the accused being committed to it  
 Procedure of special Tribunals. for trial.

(2) Save in cases of trials of offences punishable with death or transportation for life : it shall not be necessary in any trial for a Special Tribunal to take down the evidence at length in writing but the Special Tribunal shall cause a memorandum of the substance of what each witness deposes to be taken down in the English language, and such memorandum shall be signed by a member of the Special Tribunal and shall form part of the record

(3) A Special Tribunal shall not be bound to adjourn any trial for any purpose unless such adjournment is, in its opinion necessary in the interests of justice,

(4) A special Tribunal shall not, merely by reason of a change in its members, be bound to recall any witness who has given evidence, and it may act on the evidence already recorded by or produced before it

(5) After an accused person has once appeared before it, a special Tribunal may try him in his absence if, in its opinion, his absence has been brought about by the accused himself for the purpose of impeding the course of justice, or if the behaviour of the accused in court has been such as, in the opinion, of the Special Tribunal, to impede the course of justice.

(6) In the event of any difference of opinion among the members of special Tribunal the opinion of the majority shall prevail.

(7) The Provincial Government may, by notification in the Official Gazette make rules providing for,—

(i) the time and places at which special Tribunals may sit; and  
 (ii) the procedure to be adopted in the event of any member of a Special Tribunal being prevented from attending throughout the trial of any accused person.

(8) A special Tribunal shall, in all matters in respect to which no procedure has been prescribed by this Act or by

rules made there under, follow the procedure prescribed by the Code for the trial of warrant cases by Magistrates.

*Notes.*—This section aims at speedy trials and therefore departs from some of the provisions of procedure involving necessary adjournments *e g*, The accused may not be committed for offences triable by a Court of Session. It also dispenses with recalling of witnesses even on the change of a member of the Tribunal or the explaining of evidence to the accused under section 341 or taking the evidence in the presence of the accused under section 303 of the Code of Criminal Procedure. Even under provisions procedure may be departed from by Rules which may be made under sub-section (7) but in the absence of any such rules the procedure for the trial of cases will be one which is prescribed for warrant cases in Chapter VI of the Cr P C.

11 In addition and without prejudice, to any powers which a Special Tribunal may possess by virtue of any law for the time being in force to order the exclusion of the public from any proceedings, if at any stage in the trial of any persons before a Special Tribunal application is made by the prosecution, on the ground that the publication of any evidence to be given or of any statement to be made in the course of the trial would be prejudicial to the safety of the state that all or any portion of the public shall be excluded during any part of the hearing, the Special Tribunal may make an order to that effect, but the passing of sentences shall in any case take place in public.

12 A Special Tribunal shall have all the powers conferred by the Code on a Court of Session exercising original jurisdiction

13. (1) A Special Tribunal may pass any sentence authorised by law (2) A person sentenced by a Special Tribunal—

(a) to death or transportation for life, or  
(b) to imprisonment for a term extending to ten years under Section 5 of this Act or under sub-section (4) of section 5 of Indian Official Secrets Act, 1923, as amended by Section 6 of this Act

*' shall have a right to appeal to the High Court within whose jurisdiction the sentence has been passed, but save as aforesaid and notwithstanding the provisions of the Code, or of any other law for the time being in force, or anything having the force of law by whatsoever authority made or done, there shall be no appeal from any order or sentence of a Special Tribunal, and no Court shall have authority to revise such order or sentence, or to transfer any case from a Special Tribunal or to make any order under Section 491 of the Code, or have any jurisdiction of any kind in respect of any proceedings of a Special Tribunal,*

(3) The powers conferred upon the Provincial Government and the Governor General by Chapter XXIX of the Code shall apply in respect of a person sentenced by a Special Tribunal.

Legislative Changes.—The italicised words did not exist in the Defence of India Ordinance No. 5 of 1939 and the words "and no acceptance of a Special Tribunal shall be subject to Confirmation" existed therein at the end of sub-section (2).

#### \*CHAPTER IV.

##### SUPPLEMENTAL.

14. Save as otherwise expressly provided by or under this Act, the Ordinary Criminal and Civil Court Jurisdiction of ordinary courts. shall continue to exercise jurisdiction,

15. Any authority or person acting in pursuance of this Act shall interfere with the ordinary avocations of life and the enjoyment of property as little as may be consonant with the purpose of ensuring the public safety and interest and the defence of British India. Ordinary avocation of life to be interfered with as little as possible.

Notes :—This section cannot be regarded as a statutory limitation of the powers conferred by the Act but it can be used as a guide in considering whether the powers invoked by Government were exercised bonafide or not. A. I. R. 1948 Lah. 41. (F. B).

\*This chapter came into force in whole of British India on 14th November, 1939 by D. C. Dept. Notification No. 253-0 R/39.

16. (1) No order made in exercise of any power conferred by or under this Act shall be called in question in any court.

Savings as to orders.

(2) Where an order purports to have been made and signed by any authority in exercise of any powers conferred by or under this Act, a Court shall, within the meaning of Indian Evidence Act, 1872, presume that such order was so made by that authority.

*Notes :—*The jurisdiction of Civil Court is not barred if an order under this Act or the rules is ultra vires or if the order was not made bonafide but for some collateral object. In such cases the Court can issue an injunction against the Government—A. I. R. 1948 Lah. 41 (F B). An order is equally called in question when it is suggested that it is made without power to make it or made in improper exercise of the power to make it.—A. I. R. 1942 Cal. 510. But where the order is made under or by virtue of a rule which is invalid and therefore of no force or effect, the order is a nullity and section 16 (1) has no application, A.I.R. 1948. F C. I.

17. (1) No suit, prosecution, or other legal proceeding shall lie against any person for anything done or intended to be done in pursuance of this Act or any rules made there under.

Protection of action taken under which is the Act

(2) Save as otherwise expressly provided under the Act no suit or other legal proceeding shall lie against the crown for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act or any rules made there under

18 Where any members of the Military or the police forces of an India State or any members of a police force constituted under the authority of the crown representative are, with the authority of the Central or a Provincial Government employed in British India on Military or police duties, then—

Powers and functions and legal protection of Indian State Military police forces and of Crown representatives' police force when employed on military or police duties in British India

(a) Sections 128, 130 and 131 of the Code of Criminal Procedure, 1898, shall apply to officers, non—commissioned officers and men of an Indian State Military force when so employed as if they were officers, non—commissioned officers and soldiers respectively of His Majesty's Army

(b) Any provision of law for the time being in force which invests a police officer in British India with any status, power or function shall operate to invest a police officer of equivalent rank in an Indian State police force or in a police force constituted under the authority of the crown representative when so employed with the like status, power or function ; and for the purposes of the Code of criminal procedure, 1898, an officer in any such force not below the rank equivalent to that of a sub-inspector of police in British India shall be deemed to be an officer incharge of a police station ;

(c) Any provision of law for the time being in force which gives protection, whether specifically or otherwise, to members of His Majesty's military force or of the police forces in British India from or in respect of any prosecution or other legal proceedings or from or in respect of any other liability shall apply also to members of an Indian State military force and to members of an Indian State police force constituted under the authority of the crown representative when so employed.

19. (1) Whereby or under any rule made under this Act any action is taken of the nature described in sub-section (2) of section 299 of the Government of India Act, 1935, there shall be paid compensation, the amount of which shall be determined in the manner, or in accordance with the principles, hereinafter set out, that is to say .—

Compensation to be paid in accordance with certain principles for compulsory acquisition of immovable property, etc

(a) Where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement.

(b) Where no such agreement can be reached, the Central Government shall appoint as arbitrator a person qualified under

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\* Inserted by the Defence of India (Amendment) Act, 1940

sub-section (3) of section 22 of the above mentioned Act for appointment as a judge of a High Court

(c) The Central Government may, in any particular case, nominate a person having expert knowledge as to the nature of the property acquired, to assist the arbitrator, and when such nomination is made, the person to be compensated may also nominate an assessor for the said purpose.

(d) At the commencement of the proceedings before the arbitrator, the Central Government and the person to be compensated shall state what in their respective opinions is a fair amount of compensation.

(e) The arbitrator in making his award shall have regard to —

(i) the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894, so far as the same can be made applicable, and (ii) whether the acquisition is of a permanent or temporary character.

(f) An appeal shall lie to the High Court against an award of an arbitrator except in cases where the amount thereof does not exceed an amount prescribed in this behalf by rule made by the Central Government

(g) Save as provided in this section and in any rule made thereunder, nothing in any law for the time being in force shall apply to arbitrations under this section

(2) The Central Government may make rules for the purpose of carrying into effect the provisions of this section.

(3) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

(a) the procedure to be followed in arbitrations under this section

(b) the principles to be followed in apportioning the costs of the proceedings before the arbitrator and on appeal

(c) The maximum amount of an award against which no appeal shall lie

Notes — The Central Government vide O. C. Deptt. Notification No. 1365 OR 42 dated 19th September 1942, have entrusted all the Provincial Governments the function of the Central Government under this section in respect

of cases where action is taken by or on behalf of the Provincial Government, or by an officer of the Provincial Government, on behalf of the Central Government.

**20:** In this Act, unless there is anything repugnant in the subject or context, the expression "Provincial Government," means in relation to a Chief Commissioners' Province, the Chief Commissioner.

**21.** The Defence of India Ordinance, 1939 is hereby repealed, and any rules made, anything done, and any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been made, done or taken in exercise of powers conferred by or under this Act as if this Act had commenced on the third day of September, 1939.

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# **The Defence of India Rules**

**(Being Rules made under the Defence of India Act, 1939,  
Amended upto 15th March 1944.)**

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# THE DEFENCE OF INDIA RULES.

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# THE DEFENCE OF INDIA RULES

## PART I,

### *Preliminary.*

1. These Rules may be called the Defence of India Rules.

Short Title.

*Notes :—*The rules were published in the Gazette of India Extraordinary, dated 3rd September 1939 vide D. C. Dept. Notification No. 221/1 O.R. of the same.

2. In these Rules, unless there is anything repugnant in the Definition. subject or context :—

(1) "enemy" means any person or State at war with His Majesty ;

[(2) "enemy territory" means—

(a) an area which is, under the sovereignty of, or administered by, or for the time being in the occupation of, a State at war with His Majesty, not being an area in the occupation of His Majesty or of a State allied with His Majesty, and

(b) any area which may be notified by the Central Government to be enemy territory,]

(3) "notified" and "notification" mean notified and notification respectively in the official Gazette,

(4) "Ordinance" means the Defence of India Ordinance, 1939 ;

(5) "prescribed" means prescribed by any order, direction or regulation made or given in pursuance of any of these Rules,

(6) "prohibited place" means a prohibited place as defined in sub-section (8) of section 2 of the Indian Official Secrets Act, 1923,

(7) "protected place" means a place declared under rule 7 to be a protected area

(9) "protected area" means an area declared under rule 8 to be a protected area,

(9) "Provincial Government" means in relation to a Chief Commissioner's Province the Chief Commissioner,

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1 Substituted by D. C. Dept Notification No 529-ORT40, dated the 23rd July 1940, for the original clause (2).

[Pt.I.]

(10) "public servant" includes any public servant as defined in the Indian Penal Code and any servant of any local authority or railway administration ;

(11) "requisition" means in relation to any property to take possession of the property or to require the property to be placed at the disposal of the requisitioning authority ;

(12) "war" means any war in which His Majesty may for the time being be engaged,

8. (1) The General Clauses Act, 1897, shall apply to the interpretation of these Rules as it applies to the interpretation of a Central Act.

(2) Any reference in these Rules to the forces, vessels, aircraft, servants, subjects or prisoners of war of His Majesty shall, unless there is anything repugnant in the subject or context, be deemed to include the forces, vessels, aircraft, servants, subjects, or prisoners of war, as the case may be, of any part of His Majesty's dominions, of any territories under the protection or suzerainty of His Majesty and of any State in alliance with his Majesty.

(3) Any reference in these Rules to the master of a vessel or the pilot of an aircraft shall be construed as including a reference to the person for the time being in charge of the vessel or aircraft as the case may be.

4 No prohibition, restriction or disability imposed by or under these Rules shall apply to anything done by or under the direction of any member of His Majesty's forces or any public servant acting in the course of his duty as such member or public servant

5. If any person to whom any provision of these Rules relates or to whom any order made in pursuance of these Rules is addressed or relates, or who is in occupation possession or control of any land, building, vehicle, vessel or other thing to which such provision relates, or in respect of which such order is made—

Non-compliance  
with Rules or orders made thereunder-

(a) fails without lawful authority or excuse, himself, or in respect of any land, building, vehicle, vessel or other thing of which he is in occupation, possession or control, to comply, or to secure

compliance, with such provision or order, or

(b) evades, or attempts to evade, by any means such provision, or order :—

he shall be deemed to have contravened 1[such provision or order]; and in these Rules the expression "contravention" with its grammatical variations includes any such failure, evasion or attempt to evade.

## PART II.

### ACCESS TO CERTAIN PREMISES AND AREAS.

6. (1) No person shall, without the permission of 2 [the Central Government or the Provincial Government] enter, or be on or in or pass over, or loiter in the vicinity of, any prohibited place.

(2) Where in pursuance of sub-rule (1) any person is granted permission to enter, or to be on or in, or to pass over, a prohibited place, that person shall, while acting under such permission, comply with such orders for regulating his conduct as may be given by<sup>1</sup> [the Central Government or the Provincial Government.]

(3) Any police officer, or any other person authorised in this behalf by the Central Government or the Provincial Government<sup>2</sup> may search any person entering, or seeking to enter, or being on or in or leaving a prohibited place<sup>3</sup>, and any vehicle, vessel, aircraft or article brought in by such person, and may for the purposes of the search, detain such person vehicle, vessel, aircraft and article.

Provided that no female shall be searched in pursuance of this sub-rule except by a female.

(4) If any person is in a prohibited place in contravention of this rule, then, without prejudice to any other proceedings which

1 Substituted by D. C Dept notification No 1020-OR/41, dated the 10th January 1942, for the words "such provision of these Rules, or, as the case may be, such provision of these rules as authorise the making of such order,"

2. Substituted by D, C Dept. notification No. 936-OR/41, dated the 19th July 1941 for the words " the Central Government "

3. Added by D.C. Dept Notification No, 4 D C (10)/43 dated the 3rd April, 1943

4. Substituted by D C. Dept. Notification No, 5 D C. (10)/43 dated the 13th February, 1943.

may be taken against him, he may be removed therefrom by any police officer or by any other person authorised in this behalf by *the Central Government or the Provincial Government* <sup>1</sup>

(5) If any person is in a prohibited place in contravention of any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with *both*.<sup>4</sup>

*Notes .—*The word 'aircraft' has nowhere been defined in the Defence of Indian Act or in the Defence of India Rules. In the Indian Aircraft Act, No XXII of 1934 it has been defined as—

"Aircraft" means any machine which can derive support in the atmosphere from reactions of the air, and includes balloons whether fixed or free, airships, kites, gliders and flying machines."

In awarding the sentence under this rule the intention of the accused is of importance, as offences under this rule differ very much in their gravity, and they cannot be dealt with by any rule of thumb sentence. If there is any reason for supposing that a man has entered a prohibited area with a view to obtaining information which might be useful to the enemy, he would deserve a severe sentence. Again, if a man has entered a prohibited area knowing full well that it is prohibited, having climbed over a fence or eluded a sentry or done something of that sort, he would deserve a more severe sentence than a man who has entered a prohibited area without appreciating that it is a prohibited area. A. I. R. 1941 Bom 855.

7 5[If as respects any place or class of places, the Central Government], or the Provincial Government considers it necessary or expedient that special precautions should be taken to prevent the entry of unauthorised persons<sup>6</sup>, that Government may by<sup>7</sup> order <sup>8</sup>[declare that place, or

<sup>4</sup> Substituted by D C Dept Notification No 701—OR/44 dated the 15th February, 1941

<sup>5</sup> Substituted by DC Dept notification No 839/41, dated the 27th June 1942, for the words "If the Central Government"

<sup>6</sup> The words "into any place" omitted by DC Dept notification No 839-OR/41 dated the 27th June 1942

<sup>7</sup> The word notified "omitted by DC Dept. notification No. 715-M/41, dated the 3rd October 1942

<sup>8</sup> Substituted by DC Dept notification No 839-OR/41 dated the 27th June 1942, for the words "declare the place,"

as the case may be, every place of that case], to be a protected place; and thereon the provisions of the Indian Official Secrets Act 1923, shall have effect 10[in relation to such place] 1[or places] as if references therein to a prohibited place and the Central Government were construed as references to a protected place and the Government making the declaration 2 [and the provisions of rule 6 shall have effect in relation to such place or places as if references therein to a prohibited place were construed as references to a protected place].

8. (1) If the Central Government or the Provincial Government considers it necessary or expedient to  
Protected areas. regulate the entry of persons into any area, that Government may, without prejudice to the provisions of any other rule, by 3 order declare the area to be a protected area; and thereupon, for so long as the order is in force, such area shall be a protected area for the purposes of these Rules.

(2) On and after such day as may be specified in, and subject to any exemptions for which provision may be made by, an order made under sub rule (1), no person who was not at the beginning of the said day resident in the area declared to be a protected area by the said order shall be therein except in accordance with the terms of a permit in writing granted to him by an authority or person specified in the said order.

4[(2a) Any police officer or any other person authorised in this behalf by the Central Government or the Provincial Government may search any person entering or seeking to enter, or being on or in or leaving, a protected area, and any vehicle, vessel, aircraft or article brought in by such person and may, for the purpose of

9The words and figure "of rule 6 and" omitted by D.D. notification No 1595 OR/42, dated the 10 October 1942,

10Substituted by D C Dept notification No 256-OR/39, dated the 23rd October 1939 for the words "in such place,"

1Inserted by D C, Dept notification No. 839-OR/41, dated the 27th June 1942.

2Inserted by D.C notification No 1595-OR/41, Dated the 10th October 1942.

3The word "notified" omitted by D C, Dept notification No 715 M/41, dated the 3rd October 1942.

4Inserted by D,D notification No 1626-OR/42, dated the 3rd April 1943

the search, detain such person, vehicle, vessel, aircraft and article.

Provided that no female shall be searched in pursuance of this sub-rule except by a female.]

(3) If any person is in a protected area in contravention of the provisions of this rule, then, without prejudice to any other proceedings which may be taken against him, he may be removed therefrom by or under the direction of any police officer or any member of His Majesty's forces on duty in the protected area.

(4) If any person is in a protected area in contravention of any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to three years <sup>1</sup>[or with fine or or with both].

<sup>2</sup>[8 A. Any person who effects or attempts to effect entry into Forcing or evad- a prohibited place, protected place or protected area. ing a guard

(a) by using, or threatening to use, criminal force to any person posted for the purpose of protecting, or of preventing or controlling access to such place or area, or

(b) after taking precautions to conceal his entry or attempted entry from any such person, shall be punishable with imprisonment for a term which may extend to seven years.

9. 1[(1) Without prejudice to the provisions of any other Orders for certain rule the Central Government or the Provincial places and areas. Government, as respects—

(a) any prohibited place,

(b) any place or area declared by it to be a protected place or protected area, or

(c) any other place or area in relation to which it appears to it to be necessary to take special precautions in the interests of the defence of British India, the public safety, the maintenance of

1. Substituted by D C Dept notification No 701-OR-41, dated the 18th February 1941, for the words " and shall also be liable to fine "

2. Inserted by D C. Dept. notification No 836-OR/41 dated the 19th July 1941.

public order, the efficient prosecution of war, or the maintenance of supplies and services essential to the life of the community, may make orders for controlling or regulating the admission of persons to, and conduct of persons in, and in the vicinity of, such place or area ]

(2) Without prejudice to the generality of the foregoing provisions, order made under sub-rule (1) in relation to any place or area may make provision—

(a) for restricting the admission of persons to such place or area and for removing therefrom any person who is therein in contravention of the orders or who has been convicted of—

(i) any contravention of the provisions of these Rules,

(ii) any offence against public order or decency ;

(b) for requiring the presence of any person or class of persons in such place or area to be notified to a prescribed authority and for requiring any person who has been convicted of any such offence as is mentioned in clause (a) of this sub-rule to report his movements while in such place or area and to observe any other condition imposed upon him by a prescribed authority ;

(c) for requiring any person or class of persons in such place or area to carry such documentary evidence of identity as may be prescribed and

(d) for prohibiting any person or class of persons from being in possession or control of any prescribed article.

1[(21) An order under this rule in respect of a prohibited place, protected place or protected area may exempt such place or area from all or any of the provisions of these rules which are expressed to apply to or in relation to a prohibited place, protected place or protected area as the case may be or may direct that all or any of the said provisions shall be subject to such modifications as may be specified in the order

(2b) An order made under this rule in respect of a place or area which is not a prohibited place, protected place or protected

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1. Substituted by D. C. Dept notification No 936-OR/41, dated the 19th July 1941, for sub-rule (1) of rule 9, which was previously substituted by D C Dept notification No 305-OR/39 dated the 15th February 1941, for the original sub-rule,



area may direct that all or any of the provisions of these rules which are expressed to apply to or in relation to a prohibited place, protected place or protected area in respect of which the order is made either without modifications or subject to such modifications as may be specified in the order.]

(3) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to three years<sup>2</sup> or with fine or with both].

10. (1) No person shall—

Trespassing on certain premises (a) unlawfully enter or board any vehicle, vessel or aircraft used or appropriated for any of the purposes of His Majesty's service, or trespass on premises in the vicinity of any such vehicle, vessel or aircraft, or

(b) trespass on, or on premises in the vicinity of, any premises used or appropriated for any of the purposes of His Majesty's service or for defence against, or protection from, an enemy.

(2) If any person is found trespassing on any premises in contravention of the provision of the provisions of sub-rule (1), or is found on any vehicle, vessel or aircraft which he has entered or boarded without lawful authority, he may, without prejudice to any other proceedings which may be taken against him, be removed from such premises, vehicle, vessel or aircraft, as the case may be, by any police officer or any other person acting on behalf of Government, or by the person occupying the premises or being in charge of the vehicle, vessel or aircraft, or any person authorised by him.

(3) No person shall, for any purpose prejudicial to the public safety or to the defence of British India be in, or in the vicinity of, any such premises or any such vehicle vessel or aircraft as are referred to in sub-rule (1), and where, in any proceedings taken against a person by virtue of this sub-rule, it is proved that at the material time he was present in, or in the vicinity of the premises,

1 Inserted by D C Dept notification No 305-OR/39, dated the 15th February 1941

2 Substituted by D C, Dept notification No 701-OR/41, dated the 15th February 1941, for the words "and shall also be liable to fine."

vehicle, vessel or aircraft concerned, the prosecution may thereupon adduce such evidence of the character of that person (including evidence of his having been previously convicted of any offence) as tends to show that he was so present for a purpose prejudicial to the public safety or to the defence of British India.

(4) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend in the case of a contravention of sub-rule (3) to seven years and in any other case to three years [or with fine or with both].

11. (1) No person loitering in the vicinity of any prohibited place or protected place or of any such premises, vehicle, vessel or aircraft as are referred to in sub-rule (1) of rule 10 shall continue to loiter in that vicinity after being ordered to leave it by any police officer or any other person acting on behalf of Government or by the person in occupation of the said premises or being in charge of the said vehicle, vessel or aircraft, or any person authorised by him.

(2) If any person contravenes the provisions of sub-rule (1), he shall be punishable with imprisonment for a term which may extend to three years \*[or with fine or with both.]

12. (1) The Central Government or the Provincial Government may, by order, prohibit or restrict for such period as may be specified in the order,—

- (a) the use of any road, pathway or waterway ;
- (b) the passage of any person, animal or vehicle over any land.

(2) If any person contravenes any order made under sub-rule (1) he shall be punishable with imprisonment for a term which may extend to six months \*[or with fine or with both.]

*Notes :—*Vide Central Government Notification No. 824—OR/41 dated 4th October, 1941 the powers under this rule shall be exercisable also by all collectors within the limits of their respective jurisdictions.

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\*1 Substituted by D. C. Deptt notification No. 701-Or/41, dated 15th February 1941, for the words "and shall also be liable to fine"

## PART III.

CONTROL OF SIGNALLING, TELEGRAPHY, POSTAL COMMUNICATIONS,  
ETC.

\*[13 (1) Save as hereinafter provided, no person shall make any signal, either visually or otherwise, in such circumstances as show that the signal—

(a) is intended to be received by a person on board a vessel at sea or an aircraft in flight, or

(b) being made from a vessel at sea or an aircraft in flight, is intended to be received by a person not on board such vessel or aircraft, or

(c) being made in an area notified by the Central Government in this behalf, is intended to be received by a person outside the external land frontiers of British India :

Provided that the preceding prohibitions shall not apply to the making of any signal with permission granted by or on behalf of the Central Government or of any signal for the purpose only of saving life, or of regulating or aiding the navigation, on the water or in the air, of vessel or aircraft other than a vessel or aircraft being used in the service of a State at war with His Majesty

(2) No person shall make any signal, either visually or otherwise, intending or knowing it to be likely that the signal may mislead any member of His Majesty's forces or any other public servant, acting in the course of his duty as such member or public servant.

(3) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to five years \*\*[or with fine or with both] ]

14 (1) Subject to the provisions of sub-rule (2) and to any exemptions for which provision may be made by general or special order of the Central

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\*Substituted by D C Dept notification o 16-OR/89, dated the 10th August 1940, for the original rule 13

\*\*Substituted by D C Dept, notification No 701-OR/41 dated the 15th February 1941, for the words " and shall also be liable to fine

Government, no person shall, except with the permission granted by the Central Government use or have in his possession or under his control any apparatus or contrivance for signalling (whether visually or otherwise) which is of such a nature that it could be used for a purpose prejudicial to the efficient prosecution of war and to the defence of British India.

(2) Nothing in sub-rule (1) shall apply in relation to—

(a) any wireless telegraphy apparatus as defined in the Indian Wireless Telegraphy Act, 1933. or

(b) any apparatus forming part of the equipment of any vessel or aircraft, being an apparatus which is required by law to be carried therein \*[or which is required for the making of any such signal as is mentioned in the proviso to sub-rule (1) of rule 13 ]

(3) In any proceedings arising out of an alleged contravention of any of the provisions of this rule, it shall be a defence for the accused to prove that at the date of the alleged contravention, application had been made by him for the first time for the necessary permission in relation to the apparatus or contrivance in respect of which the proceedings are taken, and that the application was still pending at that date.

(4) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to three years\*\* [or with fine or with both].

15. (1) In any area notified in this behalf by the Central Government, \*\*\*[or the Provincial Government, that Government may, if in its opinion], it is necessary or expedient for the efficient prosecution of the war or the defence of India,—

Control of land-marks etc

(a) by general or special order prohibit the use, display or

\*Substituted by D C. Dept notification No 368-OR/40, dated the 10th August 1940

\*\*Substituted by D D Dept notification No 701-OR/41 dated the 15th February 1941, for the words "and shall also be liable to fine"

\*\*\*Substituted by D C Dept, notification No 981-SM/41, dated the 16th August 1941, for the words 'the Central Government may' "in its opinion of the Central Government"

dossession of any article which is intended to serve or to be used, or, in the opinion of 1[that Government] is capable of serving or of being used, as a landmark or as a means of transmitting or conveying in any way any message or information to the enemy .

(b) by order direct the person having control of any such article as aforesaid to remove it, or to take such other action in relation to it as may be specified in the order ,

(c) seize and remove any such article as aforesaid or take such other action in relation to it as may seem expedient to 1[that Government]

(2) If any person contravenes any order made under any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to three years \*\*[or with fine or with both]

Control of wire-  
less telegraphy

\*\*\*\*\*[16 (1) In this rule, "telegraph" has the same meaning as in the Indian Telegraph Act, 1885, and "wireless telegraphy apparatus" has the same meaning as in the Indian Wireless Telegraphy Act, 19 3

(2) Notwithstanding anything contained in the Indian Telegraph Act, 1885, or the Indian Wireless Telegraphy Act 1938, or in the rules made under either of those Acts, the Central Government may, by general or special order, prohibit or regulate the establishing, maintaining or working of any wireless telegraph or the possession of any wireless telegraphy apparatus

(3) If any wireless telegraph is established, maintained or worked, or any wireless telegraphy apparatus is possessed, in contravention of an order made under sub-rule (2), the person so establishing, maintaining or working the telegraph or possessing the apparatus, and the occupier of the premises on which the telegraph or apparatus is situated, or where the telegraph or

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1 Substituted by D,C Dept notification No 891SM/41, dated the 16th August 1941, for the words "the Central Government"

\*\*\*\*\*Substituted by D C Dept notification No 509-OR/41, dated 26th, July 1941 for the original rule 18,

apparatus is on board any vessel or aircraft, the master of the vessel or the pilot of the aircraft,

as the case may be shall each be deemed to have contravened the order :

Provided that, in any proceedings which, by virtue of the provisions of this sub-rule, are taken against any person in respect of the establishing, maintaining or working of a wireless telegraph or the possession of wireless telegraphy apparatus by some other person in contravention of an order made under sub-rule (2), it shall be a defence for the accused to prove that the telegraph was so established, maintained or worked or the apparatus was so possessed, without his permission, and that he exercised all due diligence to prevent any contravention of the order.

(4) Any member of His Majesty's forces or any other person authorised in this behalf by the Central Government may, in relation to any vessel or aircraft, take such steps and use such force as may appear to that member or person to be necessary for securing compliance with any order made under sub-rule (2), or where a contravention of such an order has occurred, for enabling proceedings in respect of contravention to be taken.

(5) If any person has in his possession any wireless telegraphy apparatus in contravention of any of the provisions of the Indian Wireless Telegraphy Act, 1933, or of the rules made thereunder, he shall be deemed to have contravened the provisions of this rule.

(6) An officer authorised by the Central or a Provincial Government in this behalf may seize any wireless telegraphy apparatus which is possessed or used by any person in contravention of this rule or of any order made thereunder or of any of the provisions of the Indian Wireless Telegraphy Act, 1933, and keep it in safe custody subject to the orders of any court under this rule or of the Government.

(7) If any person contravenes \*[any of the provisions of this rule or of any order made thereunder] he shall be punishable with

1 Added by D C Dept notification No 28-BC/(3)/42 dated 24th April 1943

\*Substituted by D C Dept Notification No 5 D C, (13) 43, dated the 13th March, 1943 for the words "any order made under this rule,"

imprisonment for a term which may extend to five years or with fine or with both.

(8) For the purposes of this rule a court may presume that a person possesses wireless telegraphy apparatus if such apparatus is under his ostensible charge or is located in any premises or place over which he has effective control

(9) If in the trial of an offence under this rule the accused is convicted, the court shall decide whether any wireless telegraph or wireless telegraphy apparatus in respect of which an offence has been committed should be confiscated, and, if it so decides, may order confiscation accordingly.]

†[16A. (1) The Central Government or the Provincial Government may by order require the person in possession or having the control of any wireless receiving apparatus in respect of which a commercial broadcast receiver license is in force to use the same for the dissemination to the public at such time and in such manner as may be specified in the order of such matter as may be so specified.

(2) If any person contravenes the provisions of any order made under this rule he shall be punishable with imprisonment for a term which may extend to six months, or with fine or with both.]

17. (1) The Director-General, Posts and Telegraph or any person authorised by him in this behalf may by order—

Control of tele-  
phones and tele-  
graphs.

(a) direct—

(i) that any public telephone call office shall be closed to the public for such period as may be specified ;

(ii) that any subscriber's telephone connexion to any exchange shall be cut off for such period as may be specified ;

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†Inserted by D C. Dept notification No 1290—SM/42, dated the 8th May, 1942.

‡[(*ii*) where a direction has been given under sub-clause (*ii*), that the subscriber shall surrender all telephone apparatus and fittings on the premises to such person as may be specified];

(*iii*) that any person empowered by him in this behalf by order in writing may listen in to all conversations or any specified conversation over any telegraphic system,

(*b*) make provision for suspending or regulating the use otherwise than for Government purposes, of any telegraph or telephone service in any area specified in the order;

(*c*) assume the control or direction, or direct any person to assume the control or direction, of any private telephone exchange or any connexion with any such exchange.

(2) If any person contravenes any order made under the provisions of sub-rule (1), he shall be punishable with imprisonment for a term which may extend to six years \*[or with fine or with both].

18. Notwithstanding anything contained in sub-section (1), of section 5 of the Indian Telegraph, Act, 1885, any person appointed by the Central Government to be a censor may—

Power to detain or  
paraphrase tele-  
grams.

(*a*) order that any telegraphic message or class of messages to or from any person or class of persons, or relating to any particular subject, brought for transmission by, or transmitted or received by, any telegraph, shall not be transmitted or shall be intercepted or detained or shall be disclosed to the censor or to any other officer of Government mentioned in the order;

(*b*) paraphrase the wording of any telegraphic message suspected of conveying a secret meaning and order the transmission of the message as so paraphrased;

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‡Inserted by D C. Dept. notification No. 728-OR/41, dated the 22nd Nov. 1941

\*Substituted by D C Dept. notification No 701-OR/41, dated the 15th February 1941, for the words " and shall also be liable to fine "



‡[(c) delete any part of a telegraphic message which he considers to be prejudicial to the public safety or interest or to the defence of British India or to the efficient prosecution of war]

19. (1) Subject to ¶*the provisions of this rule* no person shall, except with permission granted by the Central Government, send or convey by post or otherwise from any place in British India to any destination outside India, or to any destination in British India from any place outside India,—

(a) any instruction for utilising any means of secretly conveying, receiving or recording information, including any cipher or code, or

‡(aa) any message in cipher or code, or

(b) any substance or article manufactured or designed for the purpose of secretly conveying receiving, or recording information, or

(c) any documents or other articles secretly conveying or recording any information

(1A) the provisions of sub rule (1) shall not apply to—

(a) the sending of instructions for utilising any cipher or code, the use of which is approved by notified order of the Central Government, or

(b) the sending, in accordance with conditions imposed by the Central Government, of any telegraphic message in such cipher or code, or

(c) the sending of any document conveying or recording information by means of such cipher or code being a document which specified in clear the cipher or code used,

(2) The Central Government may, in respect of any area, by notified order declare that it is expedient to control the use of means of secret communication therein, and thereupon the

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‡Inserted by D C Dept notification No 1129—OR/41, dated the 29th November 1941

¶Substituted by D C notification No 5-D C (20)/43 dated the 10th April, 1943

‡Added by D.D. notification No. 5-D.C. (20)/10th April 1943.

provisions of sub rule (1) shall apply in relation to a destination or place outside India.

(3) Any person who has in his possession or under his control any such instructions, substance, document or other article as is mentioned in sub-rule (1) shall, if required by the Central Government by a written order so to do, deliver up those instructions or that substance, document or other article to such authority or person as may be specified in the order.

(4) Nothing in sub rule (2) shall be taken to prevent the prosecution of any person in respect of a contravention of the provisions of such sub rule (1),

1 Added by Defence Dept. Notification No. 6 D.C. (00)143 dated the 18th April 1943.

(5) If any person contravenes any of the provisions of this rule he shall be punishable with imprisonment for a term which may extend to three years or *2with fine or with both.*

*Notes :—*A letter is sent within the meaning of this rule if it is started on its way to its destination even though it is intercepted on its way and does not arrive at its destination. A.I.R. 1942 Madras 723. A Code does not cease to be a secret Code because a number of other persons are using it, if it is not generally known or used by persons engaged in the business for which that Code in question is employed—*ibid.* In a case of an offence under this rule the fact that the accused is entirely innocent of any intention to injure the state during the present emergency is no reason for imposing no punishment at all. It must be almost impossible in the majority of cases, under this rule to be sure of the accused's innocent notion.—*ibid.*

Vide Defence Department Notification No. 1365—OR/42 dated 19th September 1942 in exercise of the power conferred by sub-rule 16 of section 124 of the Government of India Act, 1935 the Governor General in Council was pleased to entrust to all Provincial Governments, with their consent, the function of the Central Government under this section in respect of cases where

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2. Inserted by D.C. Dept. notification No. 1302-OR/42 dated the 21st March 1941.

action is taken by or on behalf of the Provincial Government, or by an officer of the Provincial Government, on behalf of the Central Government.

‡[19A. (1) No person shall—

(a) have under his control, or liberate any racing pigeon or homing pigeon, or send by means of any such Racing and homing pigeon any document, pictorial representation or photograph, except under the authority of a written permit granted by the District Magistrate \*or, in a Presidency Town the Commissioner of Police, or by any person authorised in this behalf by the District Magistrate or the Commissioner of Police, as the case may be],

†(b) kill, wound or take any such pigeon ;

(c) remove or tamper with any article attached to any such pigeon being an article which he has reasonable cause to believe to be a means of identifying the pigeon or of communicating information ;

Provided that nothing in clause (b) and (c) shall apply to anything done in relation to a pigeon by the person entitled to possession thereof or by any person acting on his behalf.

†“Provided further that in any proceedings which, by virtue of clause (b) are taken against any person in respect of the killing or wounding of any such pigeon, it shall be defence for the defendant to prove that he acted under the reasonable belief that the pigeon was not a racing or homing pigeon, and that (in a case where he subsequently took possession of the pigeon) he forthwith caused the pigeon, together with any article attached thereto which he had reasonable cause to believe to be a mean of identi-

‡Inserted by D C. Dept. notification No. 1302-OR/42 dated the 2 1st March 1941.

\*Substituted by D. Dept notification No. 1302-OR/42, dated the 2nd May 1942, for the words "or an officer authorised by him in this behalf"

†Added by D Dept. notification No. 1302-OR/42, dated the 13th March 1943.

‡Substituted by D C. Dept. Notification No. 701-OR/41, dated the 15th February 1941, for the words "and shall also be liable to fine".

fyng the pigeon or communicating information, to be delivered to a police officer.

(2) With a view to securing compliance with sub-rule (1), any police officer not below the rank of Head Constable may enter any premises and liberate or take possession of any racing or homing pigeon found by him therein or thereon.

¶[(3) If any person finds dead or unable to fly a racing pigeon or homing pigeon to which there is attached any article which he has reason to believe to be a means of identifying the pigeon or of communicating information, he shall forthwith cause the pigeon to be delivered to a police officer :

Provided that nothing in this sub rule shall impose any obligation in respect of a pigeon upon any person, or the servant or agent of any person, who is entitled to have that pigeon, under his control by virtue of a permit granted under clause (a) of sub-rule (1).

(4) Any pigeon seized by or delivered to a police officer under the provision of this rule shall be disposed of in such manner as the Central Government may by general or special order direct ]

\*[(5) If any person contravenes the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both]

20. (1) For the purpose of this rule and of rule 21, the Control of postal communications expression "postal article" includes a letter, postcard, newspaper, book, pattern or sample packet, parcel and every article or thing transmissible by post, and a money order.

(2) The Central Government may, by general or special order, either generally or with reference to any particular place within or without British India, prohibit, regulate, restrict or impose conditions upon the receipt or transmission in, or despatch

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¶Inserted by D C Dept. notification No 1302-OR/42, dated the 2nd May 1942.

\*Re-numbered for sub-rule (3) by D C Dept notification No 1302-OR/42, dated the 2nd May 1942

from, British India of any postal article or of any class or description of postal articles.

(8) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to three years \*[or with fine or with both].

21 (1) Notwithstanding anything contained in section 26 Power to intercept of the Indian Post Office Act, 1898, any and censor postal person appointed by the Central Government articles to be a censor may—

(a) order that any postal article or class or description of postal articles in course of transmission by post shall be intercepted or detained or shall be disposed of in such manner as the censor may direct,

(b) open and examine the contents of any postal article, and delete, destroy or remove any part thereof which the censor considers to be prejudicial to the public safety or interest or to the defence of British India or the efficient prosecution of war.

(2) Any person who delivers any postal article for transmission, either by an indirect route or otherwise, in such a manner as is calculated to evade examination by a censor, shall be punishable with imprisonment which may extend to five years \*\*[or with fine or with both].

22. (1) In this rule,—

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“ photograph ” includes any photographic plate, photographic film or other sensitised article which has been exposed in a camera whether such plate, film or other article has been developed or not.

(2) The Central Government may, by order, make provision for securing that, subject to any exemptions for which provision may be made by the order, and except in accordance with such

\*\*Substituted by D C Deptt notification o. 701-OR/41, dated the 15th February 1941, for the words “ and also be liable to fine ”.

\*\*\*Clause (a) and the brackets and letter (b) of sub-rule (1) omitted by D C Deptt notification No. 1198-OH/42, dated the 8th June 1942.

any person of such class as may be specified in the order †[who has entered ¶India since the 8th December 1941]. to furnish to such authority and in such manner as may be so specified such particulars regarding §[himself, his dependent] his past and prospective movements and any travel documents in his possession as may be specified in the order.

(2) If any person contravenes any order made under sub-rule (1), he shall be punishable with fine up to one hundred rupees.]

25. (1) The Central Government may, by order, make provision for securing that, subject to such Leaving British India. exemptions as may be provided for in the order \* [any person for the time being in British India or any class of such person] shall not—

(a) proceed † [from British India] to a destination outside India except under the authority of a written permit granted in such form and manner and by such authority or person as may be specified in the order ;

(b) for the purpose of proceeding to a destination outside India, leave British India elsewhere than at such place as may be specified in the order.

(2) Where any police officer not below the rank of Inspector, or any other public servant authorised in this behalf by the Central Government, has reason to suspect that any person who

† Substituted by D.C. Dept. notification No. 188-OR-42, dated the 11th July 1942, for the words "entering British India",

¶ The word "British" omitted by D.C. Dept. notification No. 1988-OR/42, dated the 11th July 1942.

§ Inserted by D.C. Dept. notification No. 1988-OR/42 dated the 4th July 1942.

\* Substituted by D.C. Dept. notification No. 1531-OR/42, dated the 8th August 1942 for the words "any person or class of persons"

1 The words "from British India" were first omitted by D.C. Dept. notification No. 13-M P, dated the 14th October 1939 and then inserted again by D.C. Dept. notification No. 13-2 M P, dated the 4th November 1939

is about to depart from British India is attempting so to depart for purposes prejudicial to the public safety or of the defence of British India; he may, notwithstanding the fact that such departure does not contravene any order made under-rule (1), prevent the departure of that person.

(3) Any police officer or other public servant who prevents the departure of any person under sub-rule (2) shall forthwith report the fact of such prevention to the Central Government, and the Central Government may, if it thinks fit, by order, prohibit such person at any time subsequently leaving British India so long as the order is in force.

(4) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to five years <sup>1</sup>[or with fine or with both].

(5) The master of any vessel or the pilot of any aircraft by means of which any person leaves British India in contravention of any order made under this rule shall, unless he proves that he exercised all due diligence to prevent the said contravention, be deemed to have abetted the contravention.

26. (1) <sup>2</sup>[The Central Government or the Provincial Government, if it is satisfied with respect to any movements of suspected persons, restriction orders and detention orders, particular person that with a view to preventing him from acting in any manner prejudicial to the defence of British India, the public safety, the maintenance of public order, <sup>3</sup>[His Majesty's relations with foreign powers or Indian States, the maintenance of peaceful conditions in tribal areas or the efficient prosecution of the war it is necessary so to do, may make an order, ]

1 Substituted by D C Dept notification No 701-OR/41, dated the 15th February 1941, for the words "and shall also be liable to fine"

2 Substituted by D C Dept notification No. 358-OR/40, dated the 28th March 1940, for the original sub-rule (1)

3 Inserted by D C. Dept notification No 534-OR/40 dated the 3rd August 1940

place is situate, or, where the place is situate in a Chief Commissioner's Province, of the Central Government ;

(b) the power to determine the conditions of detention shall be exercised by the Provincial Government of the Province in which the place is situate, or, where the place is situate in a Chief Commissioner's Province, by the Central Government.]

<sup>1</sup>[(5B) If the Central Government or the Provincial Government, as the case may be, has reason to believe that a person in respect of whom that Government has made an order under clause (b) of sub-rule (1) directing that he be detained has absconded or is concealing himself so that such order cannot be executed, that Government may—

(a) make a report in writing of the fact to a presidency Magistrate or a Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides . and thereupon, the provisions of sections 87, 88 and 89 of the Code of Criminal Procedure, 1898. shall apply in respect of the said person and his property as if the order directing that he be detained were a warrant issued by the Magistrate ;

(b) by notified order direct the said person to appear before such officer, at such place and within such period as may be specified in the order , and if the said person fails to comply with such direction he shall, unless he proves that it was not possible for him to comply there with and that he had within the period specified in the order informed the officer of the reason which rendered compliance there with impossible and of his whereabouts punishable with imprisonment for a term which may extend to seven years or with fine or with both ”

<sup>2</sup>(5c) *The Central Government or the Provincial Government may, by general or special order made with the consent of the Crown Representative, provide for the removal of any person detained by it under*

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1 Substituted by D. Dept notification No. 1020-OR/41, dated the 15th August 1942, for the original sub-rule (5B) which was inserted by D. C. Dept notification No 580 OR/40, dated the 28th October 1940.

2. Inserted by D C Dept notification No 1354-OR/41, dated the 28th April, 1942



*sub-rule (1) to, and for the detention of such person in, any area administered by the Crown Representative.]*

(6) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to five years *or with fine or with both*<sup>1</sup> and if such person has entered into a bond in pursuance of the provision of sub-rule (31) his bond shall be forfeited, and any person bound thereby shall pay the penalty thereof, or show cause to the satisfaction of the convicting court why such penalty should not be paid.

*Notes* —The words 'notify his movements' in Rule (1) (e) cannot be extended to mean "shall report his presence" Rule 26 does not empower the Government to call upon the suspected person to report his presence periodically. Failure to report presence does not contravene R. 26 (1) (e). A. I. R. 1942 Alla. 253 (2). Rule (1) (h) does not confer any independent power. The order must be made within the limits of sub-rules (a) to (g) of R. 26 (1) and those orders may be regulated by virtue of R. 26 (1) (h). If an order does not come within the scope of sub-rule, (a) to (g) of S. 26 (1) it cannot be supported by R. 26 (1) (h) alone. No valid order can be made under R. 26 (1) (h) which in term is not covered by any of the preceding sub-rules—*ibid*. In the case of persons detained under this rule it is not the practice of Government to allow them to see their legal advisors. That is a matter entirely within the discretion of Government and it is not open to the High Court to make any order in the matter. A. I. R. 1943 Bom 194

In A. I. R. 1943 F. C. 1 it was held that in its present form this rule goes beyond the rule making powers which the Legislature has thought fit to confer upon the Central Government and is for that reason invalid. But since then S. 2 (2) (X) has been substituted by the Defence of India (Amendment) Ordinance, 1948. Section 3 of the Defence of India (Amendment) Ordinance

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<sup>1</sup> Substituted by D. C. Dept notification No 701-OR/41 date 15th February 1941 for the words, "and shall also be liable to fine",

is *intra vires* and effective and does prevent the detention of a person being questioned on the ground that such detention was ordered under this rule, as originally framed, A. I. R. 1944 Lah : 33 A. I. R. 1943 F. C. 75.

The court cannot investigate the sufficiency of the material or the reasonableness of the grounds upon which the Governor had been satisfied. But whenever powers of this kind or other special statutory powers are conferred, they must, to the extent to which specific provision has been made in the statute conferring the powers, be exercised by the authority and in the manner specified in the statute and in strict conformity with the provisions thereof and the court can see whether this is done. A. I. R. 1943 F. C. 75. The expression "Provincial Government" in R. 26 does not mean anything other than what it would mean under the definition in the General Clauses Act.—*ibid*. In the absence of a delegation made under S. 2 (5), Defence of India Act, the authority to be satisfied under this rule must be the Governor. It does not mean the Governor or Officers subordinate to him under S. 49 (1), Constitution Act, or the authority or officers to whom this function may have been allotted by Rules of Business framed in accordance with S. 59 (3) of the Act,—*ibid*.

where persons who are detained under R. 129 are ordered to be detained under R. 26 as a matter of routine on a mere recommendation of the police, the orders are bad in law as it does not appear that the matter was considered by the Governor at any stage, much less that at the time the order was made he was satisfied with regard to any of the matters set out in the order of detention.—*ibid* Orders of detention passed by the Additional Home Secretary himself without referring the cases to the Governor were held to be bad in law—*ibid* The satisfaction of the Provincial Government is a condition precedent to the validity of any order made under this rule By reason of R. 3, Defence of India Rules, which applied the General Clauses Act, to the interpretation of the Defence of India Rules the satisfaction must be the satisfaction of the Governor personally either

acting with or without the advice of his Ministers. It is not sufficient that the Provincial Government as such is satisfied or that any one acting on their behalf is so satisfied. The satisfaction must be that of the Governor. No delegation of the Governors' powers to make the orders is valid unless made under S. 2 (5) Defence of India Act. Since the personal satisfaction of the Governor is a condition precedent to the validity of the orders under Rule (26) (1) (b) the questions of the once of proof becomes important. The court can under section 114 (e) Evidence Act, make a presumption as to the personal satisfaction of the Governor from the terms of the order itself when the order is regular on the face of it and unobjectionable in any way. But whether a presumption should or should not be made must depend upon the particular circumstances of each case. A. I R. 1944 Lah. 33. Orders of detention passed under R. 26 (1) (b) are not Public Records and therefore S. 85, Evidence Act, has no application.

'Provincial Government' in relation to Chief Commissioners' Province means Chief Commissioner. The order of detention under this rule purported to have been made by the Chief Commissioner is therefore perfectly valid A. I R 1944 Lah. 88 (F B).

27 (1) The Central Government or, as the case may be, the Provincial Government may, by order, direct that any person in respect of whom an order has been made by that Government under the provisions of the rule 26 shall—

- Power of Photo-graphing, etc. suspected persons.
- (a) allow himself to be photographed ,
  - (b) allow his finger and thumb impression to be taken ,
  - (c) furnish specimens of his handwriting and signature , and
  - (d) attend at such time and place before such authority or person as may be specified in the order for all or any of the purposes mentioned in this sub-rule.

(2) if any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which

may extend to six months 1. or with fine or with both].

‡[27A (1) If the Central Government or the Provincial Control and wind- Government is satisfied with respect to any ing up, of certain organisation either :— organisations

(a) that it is subject to foreign influence or control, or

(b) that the persons in control thereof, have, or have had, association with persons concerned in the Government of, or sympathies with the system of Government of, any State at war with His Majesty, or have been conspiring to assist any such State,

and in either case that there is danger of the utilization of the organisation for purposes prejudicial to the defence of the British India the public safety, the maintenance of public order, the efficient prosecution of war, or the maintenance of supplies and services essential to the life of the community, that Government may by notified order direct that this rule shall apply to that organisation.

(2) If the Central Government or the Provincial Government is satisfied that any organisation is engaged, in succession to any organisation to which this rule applies in activities substantially similar to those formerly carried on thereby, that Government may by notified order direct that this rule shall apply to that organisation

(3) No person shall—

(a) manage or assist in managing any organisation to which this rule applies ;

(b) promote or assist in promoting a meeting of any members of such an organisation, or attend any such meeting in any capacity ;

(c) publish any notice or advertisement relating to any such meeting ,

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1 Substituted by D.C, Dept notification No 701-OR/41, dated the 15th February 1941, for the words "and shall also be liable to fine "

‡Inserted by D C Dept notification No 1448-OR/42 dated the 22nd June 1941

(d) invite persons to support such an organisation ,

(e) otherwise in any way assist the operation of such an organisation.

(4) The provisions of section 17A to 17E of the Indian Criminal Law Amendment Act, 1908 (XIV of 1908), shall apply in relation to an organisation to which this rule applies, as they apply in relation to an unlawful association ;

Provided that all powers and functions exercisable by the Provincial Government under the said sections as so applied shall be exercisable also by the Central Government.

(5) If any person contravenes any of the provision of this rule, he shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both.]

23. (1) The Central Government may, by order, make Prisoners of war etc. provision—

(a) for regulating access to, and the conduct of persons in places in British India where prisoners of war are detained, and for prohibiting or regulating the despatch or conveyance from outside such places to or for prisoners of war therein, of any such articles as may be specified in the order ,

(b) for regulating the conditions to be observed in connexion with the employment and maintenance of prisoners of war in British India while elsewhere than in places for the detention of prisoners of war.

<sup>1</sup>(c) for prohibiting or regulating communications with, or the supply of articles to, prisoners of war in British India ]

(2) The provisions of sub-rule (1) and of sections 128, 129 and 130 of the Indian Penal Code shall apply in relation to a person detained or confined by order made under clause (b) of sub-rule (1) of rule 26 or clause (g) of sub-rule 31 <sup>2</sup>[or made or deemed to be made under clause (g) of sub-section (2) of the section 3 Foreigners Act, 1940 as they apply in relation to a prisoner of war

<sup>1</sup>Inserted by D Dept' notification No 1590/OR 42, dated the 26th September, 1942

<sup>2</sup>Substituted by Defence Dept. notification No 1590-OR/42, dated the 10th December 1942.

(3) No proceedings shall be taken, by virtue of this rule, against a person in respect of any act done by him when he is himself a prisoner of war.

(4) If any person contravenes any order made under the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to five years \*~~or with fine or with both.~~

29. (1) For the purposes of this rule.—

Change of name (a) the expression "name" shall be by British subjects construed as including a surname, and

(b) a name shall be deemed to be changed if the spelling thereof is altered,

(8) No British subject who is in British India on the day on which the Ordinance came into force shall, while in British India at any time after that day, assume or use or purport to assume or use for any purpose any name other than that by which he was ordinarily known immediately before the said day, unless, at least one month before the day on which he first assumes or uses or purports to assume or use that other name, he has given to the Provincial Government, a notice specifying—

(a) his existing name in full and the change which he proposes to make in it, and

(b) the address of his place of residence or place of abode, if any, in British India, and has complied with such orders in respect of such notice, including orders for giving public intimation of his intention to change his name, as the Provincial Government may give.

(8) In relation to any British subject who, not having been in British India on the day on which the Ordinance came into force, thereafter enters British India, sub-rule (2) shall have effect as if for any reference in that sub-rule to the said day there were substituted a reference to the day on which he first enters British India after the day on which the Ordinance came into force,

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\*Substituted by D. C. Dept. notification No. 701-OR/41, dated the 13th February, 1941 for "to fine."

(4) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to two years †[or with fine or with both].

(5) Nothing in this rule shall apply to the assumption of use—

(a) by any married woman of her husband's name ;

(b) of name in pursuance of a Royal licence, or in consequence of the grant of, or succession to, any rank or title ,

(c) of any name in such circumstances as may be specified by order of ††[the Central Government or the Provincial Government]

## PART V.

### RESTRICTIONS ON FOREIGNERS.

30. For the purposes of this Part the expression " foreigner "

Definition. means a foreigner as defined in the Foreigners Act, 1864, but does not include—

(i) any ruler or subject of an Indian State ;

(ii) any native of the tribal areas.

31 (1) If in the opinion of the Central Government it is necessary for the defence of British India, the efficient prosecution of the war or the public safety or interest so to do, the Central Government may, by order, make provision, either generally with respect to all foreigners or with respect to such foreigners or class of foreigners as may be specified in the order, for all or any of the following purposes, that is to say —

(a) for prohibiting, regulating or restricting the entry of foreigners into British India or their departure therefrom or their continuance therein ,

(b) for regulating or restricting the liberty of foreigners residing or being in British India.

†Substituted by D C Dept notification No 701-OR/41, dated the 15th February 1941, for the words and shall also be liable fine "

††Substituted by D C. Dept., notification No 890—OR/41, dated the 28th June, 1941, for the words "the Provincial Government."

32. (1) A District magistrate, or any other Magistrate authorised by the District Magistrate in this behalf, a Commissioner, Superintendent or District Superintendent of Police or any other police officer not below the rank of a Sub-Inspector authorised by the Commissioner, Superintendent or District Superintendent of Police in this behalf, may, for any purpose connected with the enforcement of the provisions of rule 31, enter with such assistance as he may think fit any vessel or aircraft at any port or place in British India and may—

(a) order the master of the vessel or the pilot of the aircraft, as the case may be,—

(i) before allowing any passenger to disembark, to furnish a list in writing of the passengers who are on board or who have been carried on board at any time since the vessel or aircraft commenced its journey, specifying the ports or places at which they embarked, the ports or places of their disembarkation or intended disembarkation, and such other particulars as may be required by order of the Central Government made in pursuance of this rule,

(ii) to answer to the best of his ability any question relating to the passengers who are on board or have disembarked in any part of British India,

(b) if any foreigner on board such vessel or aircraft does not state his reasons for coming to British India or if his account thereof is not satisfactory, either—

(i) refuse to allow such foreigner to disembark from such vessel or aircraft, or

(ii) place him under such restraint as may be specified by the Central Government in this behalf.

(2) If the master of any vessel or the pilot of any aircraft wilfully makes any false report or gives any false answer in respect of any matter as to which he is ordered under this rule to make a report or furnish an answer, or wilfully neglects or refuses to comply with the provision of this rule or of any order given in pursuance thereof, he shall be punishable with imprisonment for a



term which may extend to one year \*[or with fine or with both].

38. (1) For the purposes of this rule.—

Change of name (a) the expression "name" shall be by foreigners. construed as including a surname, and

(b) a name shall be deemed to be changed if the spelling thereof is altered.

(2) No foreigner who is in British India on the day on which the Ordinance came into force shall, while in British India at any time after that day, assume or use or purport to assume or use for any purpose any name other than that by which he was ordinarily known immediately before the said day.

(3) Where, after the day on which the Ordinance came into force, any foreigner carries on or purports to carry on (whether alone or in association with any other person) any trade or business under any name or style other than that under which that trade or business was being carried on immediately before the said day, he shall for the purposes of sub-rule (2), be deemed to be using a name other than that by which he was ordinarily known immediately before the said day.

(4) In relation to any foreigner who, not having been in British India on the day on which the Ordinance came into force thereafter enters British India, sub-rules (2) and (3) shall have effect as if for any reference in those sub rules to the said day there were substituted a reference to the day on which he first enters British India after the day on which the Ordinance came into force.

(5) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment which may extend to five years \*[or with fine or with both].

(6) Nothing in this rule shall apply to the assumption or use—

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\*Substituted by D Dept notification No. 701-OR/41, dated 16th February 1941, for the words "and shall also be liable to fine".

- (a) by any married woman of her husband's name ; or  
 (b) of any name in pursuance of a Royal licence.

## PART VI.

### PREVENTION OF PREJUDICIAL ACTS AND CONTROL OF INFORMATION.

34. In this part, unless there is anything repugnant in the Definitions. subject or context,—

(1) " cinematograph film " includes a sound track, and any other article on which sounds have been recorded for the purpose of their being reproduced in connection with the exhibition of a film ;

(2) " confidential information " includes any information, whether true or false, or any document or other record whatsoever containing or purporting to contain, or calculated directly or indirectly to convey, any information, whether true or false with respect to any of the following matters, that is to say, —

(a) the proceedings of any meeting of the Executive Council of the Governor-General <sup>1</sup>[or of any secret meeting of either Chamber of the Indian Legislature],

(b) the proceedings of any committee, commission, conference, convention or delegation appointed by His Majesty or appointed or convened by, or at the invitation of, the Central Government or either Chamber of the Indian Legislature to deal with matters concerning the prosecution of war, the making of peace or the proposed constitution for the Government of any territory affected by the war or by the conditions of peace ;

(c) the contents of any secret or confidential document belonging to, or the contents of any document which has in confidence been communicated by, or any confidential information obtained from, Government or any person in the service of His Majesty and relating to any of the aforesaid matters

(3) " essential commodity " means food, water, fuel, light, power or any other thing essential for the " Essential commodity." existence of the community which is not—

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1. Inserted by D C. Dept. notification No. 1252-OR/42, dated the 26th February 1942.

fied in this behalf by Government ,

(4) "exhibit" and "exhibition" and their grammatical variations, include, in relation to cinematograph film, "Exhibit " and "exhibition " the mechanical or electrical reproduction of any sounds in connection with the showing of the film ,

(5) " information likely to assist the enemy " means any information, whether true or false, or any "Information likely to assist the enemy." document or other record whatsoever containing or purporting to contain, or calculated, directly or indirectly, to convey, any information, whether true or false, with respect to any of the following matters, that is to say —

(a) the number, description, armament, equipment, disposition, movement, sympathies or condition of any of His Majesty's forces, vessels or aircraft ,

(b) any operations or projected operations of any of His Majesty's forces, vessels or aircraft ,

(c) any measures, works, appliances or arrangements for or connected with, or intended for, the defence or fortification of any place by or on behalf of His Majesty's forces ,

(d) the number, description or location of any prisoners of war,

(e) any enemy agents, that is to say, persons engaged in or believed to be engaged in assisting the enemy ,

(f) the condition of His Majesty's subjects or of any class thereof or the sympathies of such subjects or class as regards matters relating to the war ,

(g) the invention, manufacture, quantity, supply, description, condition, disposition, movement, storage, repair, testing, trial or use of any munitions of war or other things which can be used in connection with the prosecution of the war ,

(h) any measures, works, appliances or arrangements for or connected with, or intended for, the protection of any munitions of war or other things which can be used in connection of the war ,

(i) any arrangements relating to the collection of means of transport or for the protection of—

(1) transport or communications, or

(i) the supply or distribution of any essential commodity ;

(j) any prohibited place, protected place or protected area, or any person or thing in, or relating to, and such place or area or anything used in, or done or proposed to be done in, or in relation to, any such place or area ;

(k) the passage of any vessel or aircraft near or over any part of India ;

(l) any losses or casualties incurred by persons in the service of His Majesty, or the number or description of any such persons returning to the active service of His Majesty after casualty, or any injury or damage caused, whether by hostile operations or otherwise, to any of His Majesty's vessels or aircraft, or to any prohibited place, protected place or protected area or to any person or thing in any such place or area, or to any munitions of war, or any injury or damage caused by hostile operations to any other person or thing whatsoever ;

(m) any cipher, code or secret or official codeword or password,

(n) any orders, instructions or regulations, regarding, or connected with, any of the aforesaid matters ,

(o) any other matter whatsoever information as to which would or might be directly, or indirectly, useful to the enemy ,

(6) " prejudicial act." means any act which is intended or

" Prejudicial act " is likely—

† [(a) to prejudice His Majesty's relations with any Indian State or with any foreign power, or the maintenance of peaceful conditions in any tribal area.]

(b) to cause disaffection among or to prejudice, prevent or interfere with the discipline, health or training of or the performance of the duties by, members of His Majesty's force or public servants ,

(c) to render any member of His Majesty's forces or any public servant incapable of efficiently performing his duties as such, or to induce any member of His Majesty's forces or any public servant to fail in the performance of his duties as such ,

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\*Substituted by D C Dept. notification No 424—OR/40, dated the 19th May 1940, for the original clause (a).

(d) to prejudice the recruiting of or the attendance of persons for service in any of His Majesty's forces or any police force or fire brigade or any other body of persons entered, enrolled or engaged as public servants ;

(e) to bring into hatred or contempt, or to excite disaffections towards, His Majesty or the Crown Representative or the Government established by law in British India or in any other part of His Majestys' dominions ,

*“(ee) to bring into hatred or contempt, or excite disaffection towards His Majestys' force or any sections thereof ”*

(f) to promote feelings of enmity and hatred between different classes of His Majestys' subjects ,

(g) to cause fear or alarm to the Public or to any section of the public,

(h) to impede, delay or restrict the means of transport or locomotion, any work necessary for the efficient prosecution of the war, the production, handling or transport of any munition of war or the supply or distribution of any essential commodity ;

*“(hh) to cause or produce, or to investigate or incite, directly or indirectly, the cessation of work by a body of person employed in any place of employment in which one hundred persons or more are normally employed, except in furtherance of a trade dispute (as defined in the Trade Disputes Act, 1929 ) with which such body of persons is directly concerned , ”*

(i) to render any munitions of war wholly or partially in-effective or dangerous, or to cause or increase danger to any person using, or engaged upon the production, handling or transport of any munitions of war ,

(j) to undermine public confidence in the national credit or in any Government loan or security or in any notes, coins or tokens which are legal tender in India or in any part thereof, or to prejudice the success of any financial measure taken or arrangements made by Government with a view to the efficient prosecution of war ,

1 Inserted by D C Dept notification No 1458-OR/40 dated the 17th June 1942

2 Inserted by D C. Dept. notification. No. 1558-SM/42 dated the 17th April 1943

<sup>1</sup>(jj) to encourage or incite any person or class of persons, or the public generally, to refuse or defer payment of any land revenue, tax, rate, cess or other dues or amount payable to Government or any local authority or payable under any law or custom having the force of law for any services rendered to the community or any rent of agricultural land or anything recoverable as arrear of or along with such rent<sup>2</sup>.

(k) to influence the conduct or attitude of the public or of any section of the public in a manner likely to be prejudicial to the defence of British India or to the efficient prosecution of war ;

(l) to investigate directly or indirectly the use of criminal force against public servants generally or any class of public servants or any individual public servants ;

(m) to instigate or incite directly or indirectly the commission or abetment of an offence punishable under section 121. Section 121-A, section 122, section 181, or section 436 of the Indian Penal Code, or of the offence of robbery or dacoity,

(n) to instigate or incite directly or indirectly the commission or abetment of an offence against, or against any rule made under the Indian Arms Act, 1878, the Indian Explosive Act, 1884, or the Explosive Substances Act, 1908 ;

(o) to instigate or incite directly or indirectly the commission or abetment of an offence against section 27 of the Indian Army Act, 1911, section 35 of the Indian Air Force Act, 1932, or sections 10 to 16 (both inclusive) of the Naval Discipline Act as set forth in the first Schedule to <sup>3</sup>the Indian Navy (Discipline) Act, 1934.

(p) otherwise to prejudice the efficient prosecution of war and the Defence of British India, or the public safety or interest ;

(7) "prejudicial report" means any report, statement or visible

1. Inserted by D C Dept notification No 300/39 dated the 16th March 1940.

2. Inserted by D C. Dept, notification No 1621-SM/42 dated the 31st October 1942,

3. Inserted by D.C. Dept. notification No. 361-OR/40 dated the 4th March 1940.

representation, whether true or false, which, or  
 "Prejudicial re- the publishing of which, is, or is an incite-  
 port" ment to the commission of, a prejudicial Act  
 as defined in this rule.

(8) "unauthorised cinematograph film" means a cinematograph  
 film which has not been certified under, or in  
 "Unauthorised respect of which a certificate has been sus-  
 cinematograph pended under, or in respect of which the  
 film". Provincial Government has decided that it  
 shall be deemed to be uncertified under section 7 of the cinemato-  
 graph Act, 1918.

Legislative changes.—clause (cc) of sub section (b) was inserted  
 by D C Dept notification No. 1456-OR/40 dated the 17th June  
 1942 and clause (hh) was inserted by D C. Dept Notification No.  
 1558-SM/42 dated the 17th April 1943, clause (jj) was also inserted  
 by Defence Dept notification No, 800/39 dated the 16th March  
 1940. The words "or any rent . . .with such rent" were inserted  
 by Defence Dept notification No. 1621-SM ; dated the 31st  
 October 1942 And the words "the Naval discipline Act ....The  
 Navy (Discipline) Act" the clause (o) were inserted by D.C. Dept.  
 notification No. 361-OR/40 dated the 4th March 1940.

Notes —The Defence of India Act is intra vires of the Govern-  
 ment and the Defence of India Rules have valid statutory authority  
 independent of the Ordinance under which they were made. A.I.R.  
 1948 Oudh 227. This rule, therefore, is within the competence  
 of the Central Government in accordance with the provisions of  
 S 2 of the Defence of India Act. A I R 1941 All 321.

Scope —R 34 (6) (e) of this rule though analogous to S  
 124—A I P C. is wider in scope and includes not only acts which  
 are "intended" but also acts which are "likely to bring into  
 hatred or contempt or excite disaffection" and the explanations  
 attached to S 124—A are also omitted. The sub-clause also  
 covers acts bringing into hatred and contempt not only the  
 Government established by law in British India but also the

Government established by law in any other parts of His Majesty's dominions. 44 P.L. R. 167.

Intention—is not a necessary ingredient of a prejudicial act as contemplated by sub clause (6), and (g). It is enough that the act is likely to promote feelings of enmity or hatred between different classes of His Majesty's subjects. A I.R 1943. All 15. Even a lawful act may infringe the rules, if the doing of it is "intended" or is likely to cause one of the effects mentioned in this rule. The intrinsic lawfulness is not the material consideration. If the act is "likely" to produce the prohibited result, it constitutes an offence whatever the intention may have been. A. I. R. 1941 All. 321.

A speech in order to amount to a prejudicial act is to be looked at from the intention of the accused as gathered from the speech as a whole and not from words and isolated sentences here and there. A. I. R 1940, Oudh 417. 1941 M W N. 1035. But a particular portion of a speech can constitute a prejudicial Act. A. I. R. 1942 Mad. 199.

Trade promotion —Though it is ordinarily unfair to apply the Defence of India Act to a speech made for the purpose of promoting the welfare of the workers in a trade or industrial dispute, yet where a speech tends to endanger the public safety and hinders the defence of British India and is likely to influence adversely the war effort, his listeners and his fellow workers, the Act can properly be applied A I R 1942 Mad 494 But when the President of a labour union calls a strike and dissuades the workers from going to work in a mill engaged in producing war material, not with the object of impeding the war but with the object of remedying a real or supposed grievance, he is not guilty although the result of the strike will be that war work will be impeded. A. I. R 1942 Mad 795.

Sedition is—prejudicial Act, and should be interpreted with reference to S 124 A I. P C But abusive language, even when used about a Government, is not necessarily seditious. Opinion, and even the violent expression of opinion, does not necessarily fall within the ambit of this rule No doubt the occasion and circum-



stances of a speech are to be taken into consideration. Where the accused has expressed his opinion about the system of Government which he was entitled to do, the mere fact that he indulged in a good deal of violent language did not make the speech seditious. A. I. R. 1942 F. C. 24. The courts should take a broad view regarding criticism of the Government. 200 I C 289—46 C. W. N. (F. R.) 9—Fed. L J 47. If the accused cannot be convicted of a prejudicial act within the meaning of R. 34 (6) (e) he cannot be convicted under R. 34 (6) (f), for the ground for convicting them under R. 34 (6) (f) would be, because criticism of the Government was likely to excite disaffection against it. A. I. R. 1943 Mad. 514. But where the criticism of the Government passes beyond all fair comment the question is not whether some of these criticisms have a certain amount of justification or not, but whether they have been over emphasised in such a way, and such inferences have been drawn from them that the intention of the speaker to bring the Government into hatred or contempt is manifest. A. I. R. 1948 Oudh. 227.

“Prejudicial Act” includes a speech at a public meeting exhorting the public to desist from enlisting in the army or assisting the prosecution of war, A. I. R. 1941 Madras, 687. A refusal to accept a currency note by a person upon the ground that it is worth nothing is an act which tends to undermine public confidence in the note and his action comes within the provisions of Rules 34 and 38. The fact that under the Paper Currency Act accused was strictly entitled to refuse the note as a legal tender has no bearing on the consequence of his Act, A. I. R. 1941 All 321. But it does not include profiteering on the ground that the increase by a merchant of the price of *dhoties* is an act likely to cause fear or alarm to the public or to any section of it, under-rule 34 this is not punishable, as the Act is not aimed at it. A. I. R. 1940 Pat 378. Tirad against police containing threats of what may be done to the police if they continue as they are at present, is also not a Prejudicial Act, A. I. R. 1941 Mad. 597. Shouting of anti-war slogans is a “Prejudicial Act” within the meaning of this rule. A. I. R. 1941 Lah, 301. But where inti-

mation to the District Magistrate of an intention to shout anti-war slogans at a particular place on a particular day has been given, it is not an offence. 1941 A. W. R. (H. C. 375—1941 A. L. W. 1084—1941 O. A. (Supp.) 923—1941 A. L. J. 687, A. I. R. 1941 Lah : 301, A. I. R. 1942 All. 121.

Sentence.—An objectionable remark in a speech cannot be several prejudicial acts merely because it is a prejudicial act in several ways. Nor can an objectionable remark be deemed to be a prejudicial act unless taken with the rest of the speech, which forms the background against which the remark must be viewed. A person cannot, therefore, be convicted three times for the same speech on the ground that it offended against the provisions of R 34 (vi) (e). The Magistrate should not take into consideration the fact that the accused was a member of revolutionary party and a history sheeter. The court is concerned only with the construction of the speech and it has not to see the effect of the speech on the mind of the people. A. I. R. 1940 Oudh 417

35. (1) No person shall do any act with intent to impair Sabotage. the efficiency or impede the working of, or cause damage to—

(a) any building, vehicle, machinery, apparatus or other property used, or intended to be used, for the purpose of Government *\*or any local authority*,

(b) any railway (as defined in the Indian Railways Act, 1890), tramway, road, canal, bridge, culvert, causeway, port, dockyard, light-house, aerodrome, *or any telegraph, telegraph line or post,\*\** (as defined in the Indian Telegraph Act, 1885),

(c) any rolling-stock of a railway or tramway, any vessel or aircraft,

(d) any building or other property used in connection with the production, distribution or supply of any essential commodity, any sewage works, mine or factory;

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\*1 Added by D D Notification No 1555 SM/42 dated 29th August, 1942.

\*\*2. Substituted by Defence Dept notification No 880—SM/41, dated the 14th August, 1942

(e) any prohibited place or protected place

(2) The provisions of sub-rule (1) shall apply in relation to any omission on the part of a person to do anything which he is under a duty, either to Government or to any public authority or to any person, to do, as they apply to the doing of any act by a person.

(3) If any person approaches, or is in the neighbourhood of, any such building, place or property as is mentioned in sub-rule (1) in circumstances which afford reason to believe that he intends to contravene that sub-rule, he shall be deemed to have attempted a contravention thereof,

(4) If any person contravenes 1—any of the provisions of this rule he shall be punishable with imprisonment with a term which may extend to seven years or *with fine or with both*.<sup>2</sup>

Legislative changes—The words “or any local authority” in clause (a) of sub-rule (1) were added by D. Dept. notification No 1555 sm/42 dated the 29th August 1942. The words “or any telegraph, telegraph line or post” in clause (b) of sub-rule (1) were substituted by Defence Dept notification No. 361—OR/41, dated the 4th March 1940. The words “or with fine or with both” in sub clause (4) were substituted by D C Dept notification No 701-OR/4 dated the 15th February 1941 for the words “and shall also be liable to fine”

*Notes.*—Where the accused thrust into the post-box rags and papers saturated with Kerosene oil which he had in his possession and the accused had also a box of matches where with to set these things alight, the case of an attempt to set fire to a post-box must—be considered proved. It is not reasonable to say that as no fire has been made to light it A I R 1943 Sind 87. For offences of such serious nature heavy and deterrant sentence should be passed—ibid. But mere expression of intention is no offence 1941 A W R (H C) 375=1941 A L W 1084 1941 A L J 687

1 Added by D C Dept notification No 361—OR/40, dated the 4th March 1940

2 Substituted by D C Dept notification No. 701—O. R/41, dated the 15th February 1941.

85. A. (1) In this rule "sabotaged property" means property receiving of sabotaged the possession of which has been transferred by, or in consequence of any such act as is referred to in sub-rule (1) of rule 85.

(2) If any person dishonestly receives or retains, or voluntarily assists in concealing or disposing of or making away with, any sabotaged property, knowing or having reason to believe the same to be sabotaged property, he shall be punishable with imprisonment for a term which may extend to seven years, or with fine or with both.

*Notes*—This rule was inserted by D. C. Dept. notification No. 1187=O. R/42 dated the 2nd March, 1942, and makes the receiving of sabotaged property also punishable. This rule is analogous to S. 411 of the I. P. C, where receiving stolen property is punishable.

36. (1) No person shall knowingly :—

Interference with (a) cause interference with the sending or postal and telegraphic communications. receiving or of communications by post, telegraphy (including wireless telegraphy), telephony (including wireless telephony) or television ; or

(b) intercept any postal, telegraphic or telephonic communication.

(2) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to five years \*[or with fine or with both].

37. (1) No person having reasonable cause to believe that such other person is engaged in assisting the enemy, shall communicate or associate with any other person.

(2) In any proceedings taken by virtue of sub-rule (1), it shall be a defence for the accused to prove that the purpose of the

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1. Inserted by D. C. Dept notification No. 1187—OR/42 dated the 2nd March 1942.

\*Substituted by D. C. Dept, notification No. 701 OR/41, dated the 18th February 1941, for the words " and shall also be liable to fine."

communication or association in question was not prejudicial to the defence of British India, to the efficient prosecution of war or to the public safety.

(3) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to five years \*[or with fine or with both]

\*[37 A. (1) The Central Government or the Provincial Government if it is satisfied that any articles likely to afford information or articles of any class or description are or other assistance likely to assist the enemy to obtain information to the enemy likely to assist the enemy to obtain information of military value or otherwise to facilitate the preparation or carrying out of hostile operations, may by order make provision—

(a) for requiring any person who has any such article in his possession or under his control to report the fact to such authority as may be specified in the order ,

(b) for prohibiting or restricting the acquisition, sale, distribution, possession or disposal of such articles ,

(c) for requiring such articles to be placed in the custody of such authority as may be specified in the order ,

(d) for authorising or requiring the destruction of such articles ,

(e) for such incidental and supplementary matters as appear to the Central Government or the Provincial Government, as the case may be, to be necessary or expedient for the purposes of the order

(2) If any person fails to comply with any order made in pursuance of this rule, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.]

38. (1) No person shall, without lawful authority or excuse,—

Prohibition of prejudicial acts, publications and communications

(a) do any prejudicial act or

(b) obtain, collect record, elicit, make, print or publish or distribute or communicate by means whatsoever to any other person, any information likely to assist the enemy ; or

(c) make, print, publish or distribute any document containing, or spread by any other means whatsoever, any prejudicial report ; or

(d) make, print, produce, publish or distribute any publication containing, or communicate to any person by any means whatsoever, any confidential information ;

(2) The author, editor, printer and publisher of, and any person who otherwise makes or produces, any information likely to assist the enemy, any confidential information or any prejudicial report, and any person who distributes or sells any information or report of that nature, knowing it to be of such nature, shall be deemed to have contravened this rule

(3) Any person who exhibits, or causes or allows to be exhibited, to the public or to any section of the public any unauthorised cinematograph film containing any information likely to assist the enemy, any confidential information or any prejudicial report or any reference to or representation of any such information or report and the licensee of any building or other premises licensed under the Cinematograph Act, 1918, for giving exhibitions by means of cinematograph, and the occupier, or, if there is no occupier, the owner, of any other building, or other premises in or on which any unauthorised cinematograph film as aforesaid is exhibited shall be deemed to have contravened this rule,

(4) The proprietor, manager or any other person in control of any place in which, and every person who takes part in any public performance of any play, pantomime, drama or recitation in the course of which any confidential information, any information likely to assist the enemy or any prejudicial report is published shall each be deemed to have contravened this rule

(5) If any person contravenes any of the provisions of this rule; he shall be punishable with imprisonment for a term which may extend to five years \*[or with fine or with both]

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\*Substituted by D. C. Dap' notification No. 701-OR/41, dated the 15th February 1941, for the words " and shall also be liable to fine."

Provided that in any proceeding arising out of a contravention of this rule,—

(a) in relation to the making or printing of any document or information, it shall be a defence for the accused to prove that the said document or information was made or printed, as the case may be,—

(i) before the Ordinance came into force, or

(ii) with the permission or under the authority of Government or

(iii) as a proof intended for submission to Government or to a person of authority designated by Government in this behalf with a view to obtaining permission for its publication,

(b) in relation to the publication of any document or information it shall be a defence for the accused to prove that the said document or information was published —

(i) before the ordinance came into force, or

(ii) with the permission or under the authority of Government

Legislative changes —The words “ or with fine or with both ” were substituted by D C Dept notification No. 701-OR/41, dated the 15th February 1941 for the words “ and shall also be liable to fine.” The rest is the same as occurred in the ordinance

*Notes* --See also commentry under Rule 34 *Infra*

*Scope* —Even a lawful act may infringe the rules, if the doing of it is “intended” or is “likely” to cause one of the effects mentioned in rule 34. If the act is likely to produce the prohibited result, it constitutes an offence whatever the intention may have been, A I R 1941 All 321. In order to make a case punishable under this rule the prosecution is bound to prove that the act committed, which is the basis of charge, was committed without lawful authority or excuse A I R 1948 All, 15. Where a person is charged under this rule for doing a prejudicial act, which might amount to sedition, the court is competent to take cognisance of the offence on the report in writing of a public servant as required by rule 130 (1). It is not necessary that the complaint

be made under the order of the Provincial Government and no objection for non-compliance with section 196 Cr. P. Code can be taken on the ground that the prejudicial act amounts to sedition. 1941 Mad. 368.

**138A.** (1) No person shall without lawful authority, make, print, publish or distribute any document—  
 Prohibition of publishing matter derived from enemy sources. containing, or spread by any other means whatsoever, any matter derived from an enemy source.

(2) In any proceedings arising out of a contravention of sub-rule (1), where it appears to the court that the substance of any matter,

(i) broadcast from any wireless broadcasting station operated or controlled by the enemy or

(ii) published in any leaflet dropped from the air or otherwise distributed by the enemy, is at any subsequent time produced, whether in the same or in a different form and whether with or without comment, in any document, the court may presume that the matter contained in the document is derived from an enemy source.

(3) If any person contravenes the provision of this rule, he shall be punishable with imprisonment for a term which may extend to five years or with fine or with both.

Legislative changes — This rule was inserted by D.C. Dept. notification No. 1367-OR/42 dated the 8th May 1942.

Notes — This rule aims at prohibiting giving publicity to information derived from enemy sources.

\*[38B. (1) If in the opinion of the Provincial Government, Control of local any local authority has used or is likely to use its local fund, or has employed or permitted or is likely to employ or permit, any of its officers, members or servants to act, in furtherance of any activity prejudicial to the authorities.

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1 Inserted by D. C. Dept notification No 1367-OR/42 dated 8th May 1942

\*Inserted by D Dept notification No. 1536-OR/42, dated the 8th August, 1942.



defence of British India, the public safety, the maintenance of public order, the efficient prosecution of war, or the maintenance of supplies and services essential to the life of the community, or has passed any resolution approving of or supporting any such activity, or has failed to carry out any orders or directions lawfully made, or given to it, the Provincial Government may by order supersede the local authority for such period as may be specified in the order.

(2) When an order of supersession has been made under sub-rule (1)—

(a) all the members of the local authority shall, as from the date of supersession, vacate their offices as such members :

(b) all the powers and duties which may, by or under any law for the time being in force, be exercised or performed by or on behalf of the local authority shall, until the local authority is reconstituted in pursuance of an order under clause (b) or clause (c) of sub-rule (3), be exercised and performed by such persons as the Provincial Government may direct,

(c) All property vested in the local authority shall, until the local authority is reconstituted in pursuance of an order under clause (b) or clause (c) of sub-rule (3), vest in the Provincial Government

(3) On the expiration of the period of supersession specified in the order under sub-rule (1), the Provincial Government may—

(a) extend the period for such further term as it may consider necessary,

(b) by order direct that the local authority shall be reconstituted in the manner provided for the constitution of the authority by or under the law relating thereto, and in such case any persons who vacated their offices under clause (a) of sub-rule (2) shall not be deemed disqualified for election, appointment or nomination, unless in any particular case the Provincial Government in the order so directs, or

(c) by order direct that the local authority shall, subject to any exception which may be specified in the order, any vacancy occasioned by such exception being regarded as a casual vacancy)

be reconstituted by the persons who vacated their offices under clause (a) of sub-rule (2), and shall recommence functioning as if it had not been superseded :

Provided that the Provincial Government may at any time before the expiration of the period of supersession, whether originally specified under sub-rule (1) or as extended under this sub-rule, make an order under clause (b) or clause (c) of this sub-rule.]

39. (1) No person shall, without lawful authority or excuse, have in his possession—

Illegal possession of certain information and publications. (a) any information likely to assist the enemy or any confidential information ; or

(b) any document containing any prejudicial report ; or

(c) any authorised cinematograph film of the nature described in sub-rule 3

<sup>1</sup>[(2) Any person who, without lawful authority or excuse, has on any premises in his occupation or under his control any document containing any information likely to assist the enemy, any confidential information or any prejudicial report shall, unless he proves that he did not know, and had no reason to suspect, that the said document contained any such information or report as aforesaid, or that the said document was on such premises without his knowledge or against his consent, be deemed to have contravened this rule ]

<sup>2</sup>[(3) \*

(4) The licensee of any building or other premises licenced under the Cinematograph Act, 1918, and the occupier; or if there is no occupier, the owner, of any other building or other premises, in or on which any un-authorised film as aforesaid is found, shall, unless he proves that the said unauthorised film was in or on such building or other premises without his knowledge or against his consent, be deemed to have contravened this rule

<sup>1</sup>Substituted by D C. Dept notification No 420-OR/40, dated the 16th November, 1940, for the original sub-rule (2)

<sup>2</sup>Sub-rule (3) omitted by D C Dept notification No 520-OR/40 dated the 16th November, 1940

(5) In any proceeding arising out of a contravention of this rule in respect of the possession of any document or information, it shall be a defence for the accused to prove that the said document or information—

(a) was in his possession with the permission or under the authority of Government ; or

(b) was a proof prepared by or for him for submission to Government or to a person or authority designated by Government in this behalf with a view to the obtaining of permission for its publication ; or

(c) was published before the Ordinance came into force,

(6) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to three years <sup>1</sup>[or with fine or with both]

*Notes —Possession—*To prove possession it is necessary for the prosecution to establish some element of knowledge on the part of person said to be in possession, and this knowledge can be inferred from attendant circumstances—A I R. 1942 C 464 Possession simpliciter is liable to a heavy sentence, even though the accused did not own the thing found in his possession and he did not dissiminate it—A I R 1942 Mad 634

<sup>2</sup>[40 (1) Where in the opinion of the Central Government or the Provincial Government any document of certain documents made, printed or published, whether before or after the Ordinance came into force, contains any confidential information any information likely to assist the enemy or any prejudicial report, that Government may, by order,—

<sup>3</sup>[(a) require the editor, printer, publisher or person in possession of such document to inform the authority specified in

<sup>1</sup>Substituted by D C Deptt notification No 701-OR/41, dated the 15th February 1941, for the words " and shall also be liable to fine"

<sup>2</sup>Substituted by D C Dept notification No 347-OR/40, dated the 14th June 1941, for the original rule 40

<sup>3</sup>Substituted by D C Dept notification No. 1134-OR/41, dated the 28th February, 1942, for the original clause (a) 'of "suo-rule" (1) of rule 40.

the order of the name and address of any person concerned in the supply or communication of such information or in the making of such report,

(b) provide for the safe keeping by persons in possession of such document and copies thereof;

(c) require the delivery of such document and any copy thereof to an authority specified in the order;

<sup>1</sup>[(d)] prohibit the further publication, sale or distribution of such document <sup>2</sup>[of any extract therefrom or of any translation thereof] including, in the case of a newspaper or other periodical, the publication, sale or distribution of any subsequent issues thereof

<sup>1</sup>[(e)] declare such document and <sup>2</sup>[every copy or translation thereof or extract therefrom], to be forfeited to His Majesty.

*“Explanation — In this rule, ‘document’ includes ‘gramophone records, sound tracks and any other articles on which sounds have been recorded with a view to their subsequent reproduction.’”*

(2) Where in pursuance of sub-rule (1) any document is required to be delivered to a specified authority, that authority may enter upon and search any premises wherein such document or any copy thereof is or is reasonably suspected to be.

(3) Where in pursuance of sub-rule (1) any document has been declared to be forfeited to His Majesty any police officer may seize any copy thereof, wherever found in British India and any Magistrate may by warrant authorise any police officer not below the rank of Sub-Inspector to enter upon and search any premises whereon or wherein such document or any copy thereof is or is reasonably suspected to be.

(4) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may

1. Re-lettered for clauses (b) and (c) by D. C. Dept notification, No 1134-OR/41, dated the 23th February, 1942.

2. Inserted by D. C. Dept. notification No 1574-OR/42, dated the 19th December, 1942

3. Substituted by *ibid.* for the words “every copy thereof.”

extend to three years <sup>1</sup>[or with fine or with both].

41. <sup>2</sup>[(1) The Central Government or the Provincial Government may, for the purpose of 'securing the'   
Power to impose  
censorship defence of British India, the public safety, the maintenance of public order or the efficient prosecution of war, by order addressed to printers, publishers and editors generally,—

(a) require that all matter, or any matter relating to a particular subject or class of subjects shall, before being published in any document or class of documents, be submitted for scrutiny to authority specified in the order

(b) prohibit or regulate <sup>3</sup>[the making] or publishing of any document or class of documents, or of any matter relating to a particular subject or class of subjects, or the use of any <sup>4</sup>press, as defined in the Indian press (Emergency Powers Act, 1931).]

(2) If any person contravenes any order made under sub-rule (1), then, without prejudice to any other proceedings which may be taken against such person, the <sup>5</sup>[Government making the order] may declare to be forfeited to his Majesty every copy of any document published or made in contravention of such order and any <sup>6</sup>[press, as defined in the Indian Press (Emergency Powers) Act, 1931, used in the making] of such document

(3) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to five years <sup>1</sup>[or with fine or with both]

1. Substituted by D C Dept notification No 701-OR/41, dated the 16th February 1941, for the words "and shall also be liable to fine"

2. Substituted by D C Dept. notification No 583 OR/40, dated the 21st October 1940, for the original sub-rule (1)

3. Substituted by D C Dept notification No 1567-OR/42, dated the 12th September 1942, for the words 'Printing'

4. Substituted by *ibid.*, for the words, "printing press"

5. Substituted by D C Dept notification No. 883-OR/40, dated the 21st October 1940 for the words, "Provincial Government".

6. Substituted by D C Dept. notification No 1567-OR/42, dated the 12th September 1942, for the words "printing press or other apparatus used in the making of publication"

42. (1) For the purposes of this rule, the expression  
 Publication of In-ventions and de-signs. 'Controller' means the Controller of Patents and Designs appointed under the Indian Patents and Designs Act, 1911.

(2) Where, either before or after the coming into force of the Ordinance, an application has been made to the Controller for the grant of a patent or the registration of a design, the Controller, if he is satisfied that it is expedient for the defence of British India or the efficient prosecution of the war so to do, may, notwithstanding anything contained in the Indian Patents and Designs Act, 1911, omit to do or delay the doing of anything which he would otherwise be required to do in relation to the application, and by order, prohibit or restrict the publication of information with respect to the subject matter of the application, or the communication of such information to particular persons or classes of persons.

(3) No person shall, except under the authority of a written permit granted by the Controller, make an application for the grant of a patent, or the registration of a design <sup>2</sup>[in any country or place not included in His Majesty's Dominions and not being an Indian State]

(4) If, in the opinion of the Central Government, it is necessary or expedient for the defence of British India or the efficient prosecution of the war so to do, the Central Government may by order require any person to furnish to such authority or person as may be specified in the order, any such information in his possession relating to any invention, design or process as may be specified in the order or demanded of him by the said authority or person

(5) The right of a person to apply for, or to obtain, a patent in respect of an invention, or registration in respect of a design, shall not be prejudiced by reason only of the fact that the invention or design has previously been communicated to an authority or person

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1 Substituted by D. C. Dept. notification No 701-OR/41, dated the 16th February, 1941, for the words "and shall also be liable to fine."

2. Substituted by D.C Dept notification No 370-OR/40, dated the 14th March 1940, for the words:

in compliance with any order given under sub-rule (4), or used by an authority or person in such communication, and a patent in respect of an invention, or the registration of a design, shall not be held to be invalid by reason only of the fact that the invention or design has been communicated or used as aforesaid.

(6) In connection with the making, use or exercise of any invention or design on behalf of, or for the services of the Crown (whether by virtue of the Indian Patents and Designs Act, 1911, or otherwise), the Central Government may by order authorise the use of any drawing, model, plan, specification, or other document or information in such manner as appears to the Central Government to be expedient for the defence of British India or the efficient prosecution of the war, notwithstanding anything to the contrary contained in any licence or agreement; and any licence or agreement, in and in so far as it confers on any person, otherwise than for the benefit of the Crown, the right to receive any payment in respect of the use of any document or information in pursuance of such an authorisation, shall be inoperative.

(7) If any person contravenes<sup>1</sup> any of the provisions of this rule, <sup>1</sup>[or any order made thereunder] he shall be punishable with imprisonment for a term which may extend to five years <sup>2</sup>[or with fine or with both].

43. Whenever the Provincial Government is of opinion that any play, pantomime or other drama performed, or about to be performed, in a public place contains any prejudicial report, or is calculated to instigate the commission of a prejudicial act, it may by order, prohibit the performance, and thereupon the provisions of sections 4 to 9 of the Dramatic Performances Act, 1867 shall apply in relation to any such performance as they apply in relation to any performance prohibited by the provincial Government under section 3 of that Act.

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<sup>1</sup> Inserted by D C Dept notification No 1500-OR/42, dated the 18th July 1942

<sup>2</sup> Substituted by D Dept notification No. 701-OR/42, dated the 16th February 1941, for the words "and shall also be liable to fine"

Provided that any person who commits in relation to any order made in pursuance of this rule any of the offences specified in sections 4 and 6 of the Dramatic Performances Act, 1867, shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

44. (1) The Central Government, or the Provincial Government may by order declare any unauthorised cinematograph film which is imported in British India in contravention of any order made under these Rules to be forfeited to His Majesty.

(2) Where in pursuance of sub-rule (1) any cinematograph film has been declared to be forfeited to His Majesty, any police officer may seize such film wherever found in British India and any Magistrate may by warrant authorise any police officer not below the rank of sub-inspector to enter upon and search any premises where on or where in any such film is or is reasonably suspected to be.

244A. (1) In this rule—

(a) "approved film" means a cinematograph film approved for the purposes of this rule by the Central Government ;

(b) "Cinema theatre" means a place licensed under the cinematograph Act, 1918, for the exhibition of cinematograph films ,

(c) "Exhibitor" means a person carrying on a business of exhibiting cinematograph films to the public.

(2) Every exhibitor shall cause to be exhibited at each performance given after the 14th September 1943, in every cinema theatre under his control one or more approved films the total length of which is not less than two thousand feet

(3) Every exhibitor shall comply with any directions which the Central Government may by general or special order give as to the manner in which approved films shall be exhibited in the course of any performance.

(4) If any person contravenes the provisions of this rule he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both

Inserted by O C Dept notification No 347-OR/40, dated the 26th February, 1940

2 Inserted by D C Dept. notification No 5-D C (24)/43, dated the 15th May, 1943



45 (1) Subject to any exemptions for which provision may be made by order of the appropriate Government photography, no person shall, except under the authority of a written permit granted by or on behalf of that Government,—

(a) have with him a Camera or any material for making a sketch, plan, model or other representation in, or in the vicinity of, any prohibited place, protected place or protected area or any other place or area notified in this behalf by the Central Government, being a place or area in relation to which the restriction of photography or the making of representations<sup>1</sup> appears to that Government to be expedient in the interests of the defence of British India or

(b) make any photograph, sketch, plan, model or other representation—

(i) of a prohibited place, protected place or protected area, or of any part of, or object in, any such place or area

(ii) of an object of any such description, as may be specified by order of the Central Government ;

(iii) of, or of any part of, or object in, any such place or area in British India as may be notified by the Central Government in pursuance of clause (a) of this sub-rule

(2) In any proceedings arising out of a contravention of clause (a) of sub-rule (1), it shall be a defence for the accused to prove that at the date of the contravention application had been made by him for the first time for the necessary permit in relation to the camera or other article in respect of which the proceedings are taken, and that the application was still pending at that date

(3) The appropriate Government may, by general or special order, make provision for securing that photographs, sketches, plans and other representations made under the authority of a permit granted in pursuance of sub-rule (1), shall not be published until and unless they have been submitted to, and approved by, such authority or person as may be specified in the order, and

1 Inserted by D- C Dept notification No 347-OR/40 dated the 25th February 1940

2 Inserted by D, C Dept notification No 5 D C (2)/3 dated 15th May, 1943

3 Inserted by D C Dept notification No 361-OR/ 0 dated the 4th March, 1940.

may retain, or destroy or otherwise dispose of, anything submitted as aforesaid.

(4) If in, or in the vicinity of any place or area to which this rule or any notification issued in pursuance of this rule applies, any person is found in possession of a camera or material for making a sketch, plan model or other representation, then, without prejudice to the provisions of sub-rule (5) or to any other proceedings which may be taken against him, such camera or other material shall be liable to forfeiture.

(5) If any person contravenes <sup>1</sup>[any order made under this rule], he shall be punishable with imprisonment for a term which may extend to five years <sup>2</sup>[or with fine or with both].

<sup>3</sup>[(6) In sub-rules (1) and (3), the expression "appropriate Government" means the Central Government and except in relation to any prohibited place or to any place or area declared by the Central Government to be a protected place or protected area, includes also the Provincial Government]

<sup>4</sup>[45 A. If the Central Government certifies that the disclosure-  
Matters required (1) of any matter required by sub-section  
to be disclosed (1) of section 93 of the Indian Companies Act,  
under the Indian Companies Act, 1913, to be stated in a prospectus issued by or  
1913, on behalf of a company or by or on behalf of  
any person who is or has been engaged or interested in the forma-  
tion of the company, or

(2) of the content of a contract for the inspection of which or of a copy of which a time and place is required by clause (1) of the said sub-section to be stated in the prospectus,  
would be prejudicial to the defence of British India the public

<sup>1</sup>Substituted by D C Dept. notification No. 1500—OR/42, dated the 18th July 1942, for the words "any of the provisions of this rule"

<sup>2</sup>Substituted by D C Dept notification No 701-OR/41, dated the 15th February 1941, for the words 'and shall also be liable to fine'

<sup>3</sup>Substituted by D C Dept notification No 1019-OR/3/41, dated the 18th April 1942, for the original sub-rule (b) of rule 45

<sup>4</sup>Inserted by D Dept notification No 530-OR 40, dated the 23th July 1940.

safety, the maintenance of public order or the efficient prosecution of war or to the maintenance of supplies and services essential for the life of the community, the requirements of the said sub section (including the requirements of the said sub-section read with sub-section (2) of section 96 of the said Act) shall be deemed to have been complied with by the annexing to the prospectus of a copy of the certificate, and no matter to which the certificate relates shall be stated in the prospectus, nor shall any contract to which the certificate relates or any copy thereof be made available for inspection.]

[45B. (1) No person carrying on any undertaking to which Restriction of this rule applies shall publish, or permit to be publication of information relating to, published, copies of the accounts of that undertaking, or any report or other document relating to the operation of that undertaking,

Provided that nothing in this rule shall, unless the Central Government by general or special order otherwise directs.—

(a) relieve any such person from any obligation to furnish to Government or to any Government authority copies of any such accounts, report or document, or any other information,

(b) prevent such person from supplying copies of such accounts, report or document,—

(i) to Government or to any Government or local authority, or to the auditors of the undertaking,

(ii) to such other persons as may be authorised in that behalf in writing by the Central Government

[(c) apply to the publication by or on behalf of any person carrying on an inland navigation or water transport undertaking of any timetables relating to such under-taking

Provided further that such accounts, reports and documents may be inspected at the office of the undertaking by any person who but for this direction would have been entitled to receive or inspect copies thereof and who shall have given to the undertaking

<sup>1</sup>Inserted by D C Dept. notification No 1583-OR/42, dated the 7th September 1942

<sup>2</sup>Inserted by Defence Dept. notification No 5 D.C (2) 43 dated the 16th January 1943.

notice in writing of his desire so to do not less than seven days previously

(2) If any person contravenes any of the provisions of this rule, he shall be punishable with fine which may extend to one thousand rupees.

(3) This rule applies to :

(i) All electricity supply undertakings ;

(ii) all inland navigation, water transport, port, dock, harbour or pier undertakings,

whether or not carried on by Government or a local authority ]

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PART VII.

FALSE REPRESENTATIONS, ETC.

Under this rule the expression "Government" means any Personation and misleading acts Government whether within or without British India and misrepresentations India

(2) No person shall do any act, or make any statement.—

(a) calculated falsely to suggest that he or any other person is or is not acting (either generally or in a particular capacity) in the service, or on behalf, of any, Government, or as a public servant, or

(b) calculated falsely to suggest that any article or property does or does not belong to, or is not in the possession or under the control of Government, or has or has not been classified, selected or appropriated on behalf of Government for any particular purpose, or

(c) whereby any directions, or information falsely purporting to be duly issued or given for purposes connected with defence or British India or the securing of the public safety, are communicated or are intended to be communicated to the public or to any section thereof, or

(d) having reasonable cause to believe that the said act or statement is likely to mislead any person in the discharge of any lawful functions in connection with the defence of British India or the securing of the public safety,

(3) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to five years [or with fine or with both].

47. (1) In the rule—

Forgery and im- (a) "Government" means any 'Go-  
proper use of offi- vernment whether within or without British  
cial documents, India :  
etc.

(b) "official document" includes any passport, pass permit, certificate, licence, notice or other document issued by or under the authority of any Government or any officer of His Majesty's forces or any police officer,

(c) "official seal" includes any die, seal, plate or other instrument for making an impression or stamp and any impression or stamp of any such die, seal, plate or other instrument belonging to, or used, made or provided by or for, any Government.

(2) No person shall—

(a) forge, alter, tamper with or destroy any official document or any application request or receipt in respect of any official document, or

(b) use or have in his possession any forged or altered official document or any document so nearly resembling an official document as to be calculated to deceive, or

(c) personate or falsely represent himself to be, or not to be, a person to whom an official document relates or to whom an official document or any secret official codeword or password has been duly issued or communicated, or

(d) with intent to obtain an official document, secret official codeword or password, whether for himself or for any other person, knowingly make any false statement, or

(e) without lawful authority make, use or have in his possession or under his control any official seal or any die, seal, plate, or other instrument so nearly resembling an official seal as to be calculated to deceive

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1 Substituted by D. C. Dept notification No 701-OR/41, dated the 15th February 1941 for the words "shall also be liable fine,"

(3) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to five years <sup>1</sup>[or with fine or with both].

48. (1) No person shall without lawful authority use or wear—  
 Importer use, of uniforms, etc. (a) any official uniform, Indian, British or foreign, or any dress so nearly resembling such uniform as to be calculated to deceive; or

(b) any official decoration, medal, badge or mark of rank, rating, qualification or duty, Indian, British or foreign, or any copy or miniature thereof, or any ribbon or other emblem designed for use therewith or indicating possession thereof, or any article so nearly resembling any of the aforesaid articles as to be calculated to deceive.

(2) No person shall falsely represent himself to be a person who possesses or has possessed lawful authority to use or wear any such uniform or article as is mentioned in sub-rule (1)

(3) No person shall supply or offer to supply any such uniform or article as is mentioned in sub-rule (1) to or for any person whom he knows to be without lawful authority to use or wear it.

(4) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to five years <sup>1</sup>[or with fine or with both].

(5) In any prosecution under sub-rule (1) or sub-rule (2), the onus of proving that a person possessed lawful authority to use or wear any such uniform or article as is mentioned in sub-rule (1) shall, notwithstanding anything contained in the Indian Evidence Act, 1872, lie upon that person

## PART VIII

### PREPARATION FOR DEFENCE

49. (1) The Central Government <sup>2</sup>[or the Provincial Government] may if it appears necessary for the Evacuation of areas.

<sup>1</sup> Substitute by D. C. Dept notification No 791-OR/41 dated the 15th February 1941 for the words and shall also be liable to fine

<sup>2</sup> Inserted by D C Dept notification No 657-OR/41 dated 1st February, 1941

purpose of meeting any actual or apprehended attack or of protecting persons and property from the dangers involved in <sup>1</sup>[or resulting from] such attack <sup>2</sup>[or of facilitating any operations of His Majesty's Forces], by order direct, in respect of any 'specified' area, that, subject to any exemption made by general order or special permission,—

(a) all persons or any class of persons shall remove themselves or be removed from the said area or to any specified part thereof ;

<sup>3</sup>[(aa) all persons or any class of persons in the said area shall remain therein for such period as may be specified ;]

(b) any animals or property or any specified class of animals or property shall be removed from the said area or to any specified part thereof ;

(c) within a specified time any building or other property specified in the order shall be destroyed or rendered useless, and may do any other act involving interference with private rights of property which is necessary for any of the purposes aforesaid

(2) An order made under sub-rule (1) for the removal of persons, animals or property may specify—

(a) the route or routes by which all or any class of persons, animals or property are to remove themselves or be removed from the specified area or to any specified part thereof ;

(b) the time or times by which they are to remove themselves or be removed therefrom or to any specified part thereof ;

(c) the place or places to which they are to proceed or be taken on removing themselves or being removed from the specified area, and may make such other incidental and supplementary provisions as may appear necessary or expedient for the purposes of the said order

1 Inserted by D C Dept notification No 657-OR/41, dated the 1st February, 1941

2 Inserted by D C Dept notification No 357-OR/40, dated the 29th Feb. 1940

3. Inserted by D. C Dept notification No 1153-SM/41 dated the 24th Dec 1940

(3) If any order made under sub-rule (1) is contravened in respect of any animal or property, the person in charge of such animal or property shall be deemed to have contravened the order.

\*[(3A) The Provincial Government may, if it appears necessary for any of the purposes specified in sub-rule (1), or for facilitating the evacuation of any area, by general or special order provide for the release, whether temporary or permanent or whether without conditions or upon such conditions as may be specified, of any prisoners or class of prisoners.]

(4) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to six months <sup>1</sup>[or with fine or with both].

<sup>2</sup>[49A. (1) In the event of the occurrence of hostile attack in the vicinity, any person authorised by the Central Government or the Provincial Government in this behalf may, with a view to securing the public or maintaining public order, slaughter any animal which appears to him to be —

- (a) at large or out of control ;
- (b) dangerous or seriously injured.

(2) The power to slaughter an animal conferred by sub-rule (1) shall include power —

- (a) to cause or procure the animal to be slaughtered by some other person ;
- (b) to enter, and to authorise any such other person to enter, upon any land for the purpose of the slaughter ;
- (c) to remove and dispose of the carcase, or cause it to be removed and disposed of :

Provided that except where an animal is slaughtered in a place to which the public have access, the power to remove the carcase shall not be exercised if the owner of the animal is present and objects ]

\* Inserted by D C Dept notification No 920-SM/41, dated the 10th January 1942

1. Substituted by D C Dept, notification No, 701-OR/41, dated the 15th February 1941, for the words "shall also be liable to fine"

2. Inserted by D C Dept notification No 1305-OR/42, dated the 18th April 1942.



50. (1) The Central Government or the Provincial Government may, for the purpose of accommodating evacuated persons, any persons who have left or been removed from their homes in accordance with any order made under rule 49<sup>1</sup>[or who have left their homes on account of actual or apprehended attack] take possession of <sup>2</sup>[any premises other than—

(a) premises used for the purpose of religious worship, or

(b) a private dwelling house in use as such ]

(2) Whenever in pursuance of sub-rule (1) the Central Government or a Provincial Government takes possession of any premises <sup>3</sup>[and the circumstances are not such as to render the provisions of <sup>4</sup>[section 19 of the Defence of India Act, 1939] applicable], rent shall be paid for such premises at such rates as the Government may by general or special order made in this behalf determine.

(3) The Central Government or the Provincial Government, as the case may be, may at any time, restore possession of any premises in respect of which action has been taken under sub-rule (1) to the owner or occupier thereof and may order that no persons shall thereafter be in those premises except with the consent of the occupier.

(4) If any person contravenes any order made under this rule, he shall be punishable with fine which may extend to five hundred rupees

<sup>5</sup>50A (1) The Central Government may by notified order

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1 Inserted by D. C. Dept. notification No 1053-OR/41, dated the 2nd October 1941

2 Substituted by D C Dept notification No 1346-OR/42, dated the 18th April 1942, for the words any premises other than premises used for the purpose of religious worship or a private dwelling house".

3 Inserted by D C Dept notification No. 209-OR/39, dated the 6th October 1939

4 Substituted by D.C. Dept notification No 261-OR/39 dated the 14th November 1939, for the words and figures "section 18 of the ordinance"

5 Inserted by D.C Dept notification No 1030-OR/41, dated the 4th. September 1941,

Defence Exercises. authorise the carrying out of defence exercises in such area and during such period as may be specified in the order, and thereupon within the area and during the period so specified,

(a) any persons engaged in the defence exercises may pass over, or encamp, construct works of a temporary character or execute manœuvres on, any land, or supply themselves with water from any source of water ;

(b) any officer of His Majesty's forces may, for the purposes of the defence exercises give directions prohibiting or restricting the use of any part of a railway, water-way, road or path, or of any telegraph or telephone service, or of any premises ordinarily open to the public, and take such further measures as may be authorised in this behalf by general or special order of the Officer Commanding-in-Chief, the Command

(2) Notwithstanding to the contrary measures contained in the Indian Railways Act, 1890, the Indian Telegraph Act, 1885, or any other enactment, every public servant shall be bound to comply with any directions given to him under sub-rule (1).

<sup>1</sup>[(3) Where any defence exercises are held under the provisions of sub-rule (1), compensation shall be paid for any damage to person or property or interference with rights or privileges arising from such exercises, including expense reasonably incurred in protecting person, property, rights or privileges, and assessment and payment of compensation shall be made in accordance with the provisions of section 6 of the Manœuvres, Field Firing and Artillery Practice Act, 1938

Provided that no compensation shall be payable in respect of such interference arising out of any direction given or further measures taken under clause (b) of sub-rule (1) ].

<sup>2</sup>[(4) If any person contravenes any direction given under sub rule (1) he shall be punishable with fine which may extend to one thousand rupees]

<sup>1</sup> Inserted by D D Dept notification No 1030-OR/41 dated the 29th September 1941

<sup>2</sup> Re-numbered by *ibid* for the original Sub-rule (3)

1[50B (1) The Central Government or the Provincial Government may by notified order authorise the Field firing and artillery practice. carrying out of field firing and artillery practice throughout such area and during such period as may be specified in the order ; and thereupon such persons as are included in the forces engaged in field firing or artillery practice may, within the area and during the period so specified,—

(a) carry out field firing and artillery practice with lethal missiles ;

(b) exercise any of the rights conferred on persons engaged in defence exercises by clause (a) of sub-rule (1) of rule 50A

<sup>2</sup>[*Explanation*—In this rule “ field firing ” includes air armament practice]

(2) The Officer Commanding the forces engaged in any such practice may declare the specified area or any part thereof to be a danger zone and thereupon the Collector <sup>3</sup>[or any officer authorised by the Collector by general or special order in this behalf] shall, on application made to him by the said officer, prohibit the entry into and secure the removal from such danger zone of all persons and domestic animals during the times when the discharge of lethal missiles is taking place or there is danger to life or health

(8) Where any field firing or artillery practice is carried out under the provisions of sub-rule (1), compensation shall be payable in accordance with the provisions of section 11 of the Manœuvres, Field Firing and Artillery Practice Act, 1938—<sup>4</sup>provided that it shall not be necessary for the collector of the district in which the field firing or artillery practice is carried out, to depute a Revenue Officer to accompany the force engaged in the field firing or art-

1. Inserted by O C Dept notification No 1888-OR/40, dated the 7th April 1942

2 Inserted by D C Dept notification No 1472-OR/42, dated the 10th June 1942

3 Inserted by Defence Dept notification No 1693-OR/42, dated the 26th December 1942

4. Added by D. C Dept notification No. 5D C (50)/13 dated the 6th. Nov, 1943

illery practice for the purpose of determining the amount of compensation.

(4) If during any period specified in an order made under sub-rule (1) any person within an area so specified—

(a) wilfully obstructs or interferes with the carrying out of field firing or artillery practice, or

(b) without due authority enters or remains in any camp, or

(c) without due authority enters or remains in any area declared to be a danger zone at a time when entry thereto is prohibited, or

(d) without due authority interferes with any flag or mark or target or any apparatus used for the purposes of the practice, he shall be deemed to have contravened the provisions of this rule, and shall be punishable with fine which may extend to ten rupees ]

<sup>1</sup>[50C. (1) In this rule "the appropriate Government" means in relation to premises in contonment areas, Billeting. the Central Government, and in relation to premises in other areas the Central Government or the Provincial Government.

(2) The appropriate Government may by order require the occupier of any premises to furnish therein, while the order remains in force, such accommodation by way of lodging or food or both, and either with or without attendance, as may be specified in the order for such persons as may be so specified.

(8) The appropriate Government may by order require the owner or occupier of any premises to furnish to such authority as may be specified in the order such information with respect to the accommodation contained in the premises with respect to the persons living therein as may be so specified

(4) The price payable in respect of any accomodation furnished in any premises to any persons in accordance with an order made under sub-rule <sup>2</sup>[(2)] shall be such as may be determined by the appropriate Government, and shall be paid to the occupier by

1. Inserted by D. C Dept notification No. 1348-OR/41, dated the 4th July 1942

2. Substituted by D. Dept. notification No 1348-OR/42, dated the 8th September 1942, for the brackets and figure "(1)".

that Government ; and the amount of any sum paid in accordance with this sub-rule by the appropriate Government in respect of accommodation furnished to any person may be recovered by that Government from that person as an arrear of land revenue

(5) The appropriate Government may by order appoint an authority to hear complaints in respect of orders made under sub-rule <sup>1</sup>[(2)], and any person who is aggrieved by the service upon him, or by the operation, of such an order may make a complaint to such authority, and upon hearing the complaint such authority may cancel or vary such order as it thinks fit.

(6) If any person contravenes any order made under this rule, he shall be punishable with fine which may extend to one thousand rupees].

51. <sup>2</sup>[(1) The Central Government or the Provincial Government may, with a view to protecting the general public or any members thereof against the dangers involved in any apprehended attack by land, sea or air, or with a view to acquainting the general public or any members thereof with the action to be taken in such an emergency, by order specify the action to be taken by any person or authority on such occasions as may be specified.]

(2) An order made under sub-rule (1) may provide that upon the giving of any specified notice or signal any person or class of persons may, subject to such conditions and in such circumstances as may be specified, enter and remain in or on any premises or property <sup>3</sup>[(notwithstanding that such premises or property would not otherwise be open to the public,] which may be specified or which may be appointed for the purpose of this rule by any specified authority or person

(3) No person shall —

(a) wilfully obstruct any person entering or seeking to enter

1 Substituted by D: Dept notification No. 1346-OR/42, dated the 5th September 1942, for the brackets and figure "(1)"

2 Substituted by D C notification No 558-OR/40, dated the 21st September 1940, for the original sub-rule (1)

3 Inserted by D C notification No 770-OR/41, dated the 19th April 1941,

any premises or property in accordance with an order made under this rule, or

(b) eject from any premises or property any person who is entitled to remain there by virtue of such an order.

(4) If any person contravenes any of the provisions of this rule, <sup>1</sup>[or any order made thereunder] he shall be punishable with imprisonment for a term which may extend to six months <sup>2</sup>[or with the fine or with both].

<sup>3</sup>[51A. <sup>4</sup>[(1) The Central Government or the Provincial Government may by general or special order  
Watching of pre. make provision,—  
mises to detect fire.

(a) for requiring the occupiers of any premises to which the order applies to make and carry out such arrangements as may be specified in the order with a view to securing that fires occurring at the premises as a result of hostile attack will be immediately detected and combated ;

(b) for requiring the occupiers of several premises jointly to make and carry out such arrangements as aforesaid for all those premises, and in particular for requiring that they shall take turns of duty at specified premises and perform such fire prevention duties as may be allotted to them under those arrangements ;

(c) for empowering any authority, in such circumstances as may be specified in the order, to make and carry out such arrangements as aforesaid, including a joint arrangement, as respects any premises to which the order applies, and where it carries out such arrangements, to recover from the occupiers concerned the expenses of so doing

1. Inserted by D C. Dept notification No. 1500-OR/42, dated the 10th April 1942.

2 Substituted by D C. Dept notification No 701-OR/41, dated the 15th February 1941, for the words "and shall also be liable to fine "

3. Rules 51A, 51B and 51C were inserted by D C Dept. notification No. 713-OR/41, dated the 15th February 1941.

4. Substituted by D C Dept notification No. 1294-OR/42 dated the 14th March 1942, for the original sub-rule (1)

*Explanation.*—In clause (b) of this sub-rule, "fire prevention duties" means the duties of keeping a watch for the fall of incendiary bombs, taking such steps as are immediately practicable to combat a fire caused by such bombs and summoning such assistance as may be necessary, and includes the duty of being in readiness to perform any such duties as aforesaid ]

1[(1 A) An order under sub-rule (1) shall entitle any person required thereby to be present on premises to which the order applies to have access to those premises for the purpose of complying with the order notwithstanding that the premises would not, otherwise be open to the public and anyone who obstructs access thereto by any such person for that purpose shall be deemed to contravene the provisions of the order.]

(2) Any police officer, or any other person authorised in this behalf by the Central Government or the Provincial Government may at any time enter and inspect any premises to which any order made under sub-rule (1) applies for the purpose of seeing whether the order is being complied with

(3) If any person contravenes any of the provisions of an order made under this rule, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both

51 B 2[(1) With a view to preventing the spread, or Measure for dealing facilitating the 1[detection and] extinction, with outbreaks of fire of fire caused by hostile attack from the air, the Central Government or Provincial Government may by order make provision for requiring the owners or occupiers of the premises to which the order applies to take 3[within such period as may be specified in the order such measures as may be so specified ]

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1. Inserted by D C Dept notification No 713-OR/41 dated the 2nd Jan 1942

2 Substituted by D C Dept notification No 356-OR/41, dated the 14th June 1941 for the original sub-rule (1) of rule 51 B,

3 Substituted by D C Dept notification No 1368—OR/42, dated the 25th April 1942, for the words "such measures as may be specified in the order."

(2) Any police officer, or any person authorised in this behalf by the Central Government may any time enter and inspect any premises to which an order made under sub-rule (1) applies for the purpose of seeing whether the order has been complied with and if that officer or person finds that the order has not been complied with, he may, without prejudice to any other proceedings which may be taken in respect of the contravention of the order, take such steps and use such force as may appear to be reasonably necessary for giving effect to the order.

<sup>1</sup>[(2a) If in the opinion of the Central Government or the Provincial Government any person who has been ordered under sub-rule (1) to take any measures has failed to take or is unlikely to complete the measures within the period specified in the order then, without prejudice to any other proceedings which may be taken in respect of the contravention of the order, that Government may cause the said measures to be taken or completed and the cost thereof shall be recoverable from the owner or occupier of the premises by the Collector as if it were an arrear of land revenue.]

(3) In the event of an outbreak of fire, any person authorised in this behalf by the Central Government, may take or cause to be taken such steps and give such directions as appear to be necessary for preventing the spread of fire, and the steps which may be so taken include entering upon any land or other property whatsoever and the destruction or removal of anything in, on or over any land or property

(4) If any person contravenes any of the provisions of an order made under this rule, he shall be punishable with imprisonment for a term which may extend to six months, or with fine or with both.

51C. (1) The Central Government may by order require the Protection of factories— owner, manager or agent of any mine, or  
es and mines. the occupier or manager of any factory—

(a) to make, within such period as may be specified



in order, a report in writing stating the measures which he has taken or is taking or proposing to take to secure the due functioning of the mine or factory, and the safety of persons and property therein and in the vicinity thereof, in the event of hostile attack ;

(b) to take, within such period as may be specified in the order, such measures as may be so specified, being measures the taking of which is in the opinion of the Central Government necessary for the purposes aforesaid.

(2) The Central Government may by order require any person or class of persons employed in or in connection with, or resident within three miles of, any mine or factory, class of mines or factories or any local authority within whose jurisdiction any mine or factory is situated, to take, within such period as may be specified in the order, such measures any may be so specified being measures the taking of which is in the opinion of the Central Government necessary to secure the due functioning of such mine or factory, or class of mines or factories. and the safety of persons or property therein or in the vicinity thereof, in the event of hostile attack.

(3) Any person authorised in this behalf by the Central Government may at any time—

(a) enter and inspect any factory or mine for the purpose of ascertaining what measures have been, or ought to be, taken to secure the due functioning of the mine or factory, and the safety of persons and property therein and in the vicinity thereof in the event of hostile attack, or

(b) enter and inspect any premises belonging to or occupied by any person or authority to whom an order made under sub-rule (1) or sub-rule (2) relates for the purpose of seeing whether the order has been complied with

(4) If in the opinion of the Central Government any person or authority who has been ordered under sub-rule (1) or sub-rule (2) to take any measures has failed to take or is unlikely to complete, the measures within the period specified in the order, then, without prejudice to any other proceedings which may be taken in respect of the contravention of the order, the Central Government may cause the said measures to be taken or completed and

the cost thereof shall be recoverable <sup>1\*</sup> \* by the Collector as if it were an arrear of land revenue -[from such person or authority, or where such person is the manager or agent of a mine or the manager of a factory, from the owner of the mine or, as the case may be, the occupier of the factory].

<sup>3</sup>[(4A) For the purposes of this rule—

(1) "mine" means any mine subject to the operation of the Mines Act, 1923 ,

(2) "factory" means any factory subject to the operation of the Factories Act 1934 and includes any other premises which in the opinion of the Central Government are being used for maintaining supplies or services essential to the life of the community.]

(5) If any person contravenes any of the provisions of an order made under this rule, he shall be punishable with imprisonment for a term which may extend to three years, or with fine. or with both

[51D. (1) The Central Government or the Provincial Government may by order, as respects any area specified in the order provide for securing that, subject to any exemptions for which provision may be made in the order, no building of such class as may be specified in the order, shall be erected, extended or structurally altered except with the permission of that Government and in accordance with such requirements as to lay-out, materials and construction as that Government may impose, being requirements which it is in the opinion of that Government necessary to impose for the purpose of rendering the building less vulnerable to air raids or of affording better protection to persons using or resorting to it

(2) If any person contravenes any of the provisions of an

1 The words " from such person or authority " omitted by D. C Dept. notification No. 713-OR/41, dated the 19th February 1941

2 Added by *ibid*.

3 Inserted by D. C. Dept notification No 871-SM/41, dated the 20th September, 1941

1 Substitute by D. C Dept notification No 796-OR/41 dated the 6th August 1941, for the original rule which was inserted by D. C Dept notification No. 796-OR/41, dated the 3rd May, 1941.

order made under this rule, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both ]

<sup>1</sup>[51E (1) The Central Government or the Provincial Government may by order, as respects such premises as may be specified in the order,—

(a) require the owner of the premises to take <sup>2</sup>[within such period as may be specified in the order, such measures as may be so specified] or

(b) authorise any person to take such measures as may be so specified,

being measures which are in the opinion of that Government necessary to secure that such premises are or can be made less readily recognisable in the event of hostile attack

<sup>3</sup>[1(A) If in the opinion of the Central Government or, as the case may be, the Provincial Government, any person who has been ordered under sub-rule (1) to take any measures has failed to take, or is unlikely to complete, the measures within the period specified in the order, then, without prejudice to any other proceedings which may be taken in respect of the contravention of the order, that Government may cause the said measures to be taken or completed, and the cost thereof shall be recoverable from such person by the Collector as if it were an arrear of land revenue ]

(2) No person shall, except with permission granted by or on behalf of the Central Government or the Provincial Government, as the case may be, remove, alter, or tamper with any work done in pursuance of this rule

(3) If any person contravenes any of the provisions of this rule, <sup>4</sup>[or any order made thereunder] he shall be punishable with

<sup>2</sup> Inserted by D Dept notification No 987-OR/41, dated the 23rd August 1931

<sup>3</sup> Substituted by D C Dept, notification No 987-OR/1/41, dated the 30th May 1942, for the words "such measures as may be specified in the order "

<sup>4</sup> Inserted by *ibid.*

1. Inserted by D C Dept. notification No. 1500-OR/42, dated the 13th July 1942.

imprisonment for a term which may extend to six months, or with fine, or with both.]

*Note :—*Vide Defence Department Notification No. 17 A.R.P. —IV (cam) C. D. dated the 25th January 1944, the Central Government in exercise of the powers conferred by sub-section (4) of section 2 of the Defence of India Act and in supersession of the notification of the Government of India in the Defence Department No. 17—A.R.P. IV (Cam) C D., dated the 10th December, 1943 directed that the powers conferred upon it by this rule shall be exercisable also by the Deputy Director of Civil Camouflage

[51F. (1) In this rule, "the appropriate Government" means,

Power to require in relation to cantonment authorities and in	
local authorities to take precautionary measures	relation to port authorities in major ports, the Central Government, and in relation to other local authorities the Provincial Government.

(2) The provisions of this rule and of any order made thereunder shall have effect notwithstanding anything contained in any law or instrument defining the powers, duties or obligations of local authority.

(3) The appropriate Government may by order require any local authority to take, within such period as may be specified in the order, such measures as may be so specified, being measures which are in the opinion of that Government necessary for the protection of persons and property under the control or within the jurisdiction of such a authority from injury or damage, or for ensuring the due maintenance of the vital services of the authority, in the event of hostile attack, and thereupon—

(a) it shall be the duty of the local authority to comply with the order.

(b) the funds of the local authority shall be applicable to the payment of the charges and expenses incidental to such compliance, and

(c) priority shall be given to such compliance over all other duties and obligations of the local authority.

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1. Inserted by D C Dept notification No 371-SM/41, dated the 8th Sept. 1941.

(4) If in the opinion of the appropriate Government any local authority which has been ordered under sub-rule (3) to take any measures has failed to take, or is unlikely to complete, the measures within the period specified in the order, then, without prejudice to any other proceedings which may be taken in respect of the contravention of the order, the appropriate Government<sup>1</sup> [may authorise any person to take or complete the said measures; and any person so authorised may, for the purpose of taking or completing the said measures, exercise all or any of the powers of the local authority or of its officers, issue such directions as he thinks fit to the officers or servants of the local authority and employ any outside agency, and all charges and expenses incurred by him shall, except to such extent, if any as the appropriate Government may direct to be paid out of its revenues, be paid out of the funds of the local authority ]

<sup>2</sup> [(4A) Any person authorised in this behalf by the appropriate Government may, if he considers it necessary or expedient so to do,—

(a) by order direct a local authority or any of its officers or servants to take action as may be specified in the order, being action which is in his opinion necessary for the protection of persons and property under the control or within the jurisdiction of the local authority from the danger involved in or resulting from an actual or apprehended hostile attack ,

(b) impress and use or cause to be used for the aforesaid purpose any property belonging to or in the possession of the local authority in such manner as he thinks fit ,  
and it shall be the duty of the local authority and of its officers and servants to comply forthwith with any order made under this rule, and the funds of the local authority shall be applicable to

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1 Substituted by D C Dept notification No. 871-OR/41, dated the 20th December 1941, for the words " may cause the said measures to be taken or completed, and direct that the cost thereof shall be defrayed out of the funds of the local authority".

2 Inserted by D C Dept notification No 871-OR/41 dated the 4th July 1942,

the payment of any charges and expenses incidental to such compliance.]

<sup>1</sup>[(5) The appropriate Government may, if it considers it necessary or expedient so to do, by order authorise any person to take over from a local authority and administer in accordance with such directions as may be issued from time to time by that Government such of the services of the local authority as may be specified in the order ; and any person so authorised may, for the purpose of administering the said services, exercise all or any of the powers of the local authority or of <sup>2</sup>[any committees or officer of the local authority] issue such directions as he thinks fit to the officers or servants of the local authority and employ any outside agency and all charges and expenses incurred by him shall, except to such extent, if any, as the appropriate Government may direct to be paid out of its revenues, be paid out of the funds of the local authority

(6) If the appropriate Government is of opinion that any local authority has failed to comply, or has delayed in complying, with any order made under sub-rule (3) or that it is necessary or expedient so to do for ensuring the due maintenance of the vital services of the authority in the event of hostile attack, the appropriate Government may by order supersede the local authority for such period as may be specified in the order.

(7) When an order of supersession has been made under sub-rule (6)—

(a) all the members of the local authority shall, as from the date of supersession, vacate their offices as such members ;

(b) all the powers and duties which may, by or under any law for the time being in force, be exercised or performed by or on behalf of the local authority shall, during the period of supersession, be exercised and performed by such person or persons as the appropriate Government may direct ,

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1. Inserted by D. C. Dept notification No 871-SM/41, dated the 10th Dec 1941.

2. Substituted by D. C. Dept notification No 8, D. C (51)—43 dated 4th December, 1943,

(c) all property vested in the local authority shall, during the period of supersession, vest in the appropriate Government.

(8) On the expiration of the period of supersession specified in the order under sub-rule (6), the appropriate Government may—

(a) extend the period for such further term as it may consider necessary ;

(b) by order direct that the local authority shall be re-constituted in the manner provided for the constitution of the authority by or under the ordinary law relating thereto, and in such case any persons who vacated their offices under clause (a) of sub-rule (7) shall not be deemed disqualified for election, appointment, or nomination, or

(c) by order direct that the local authority shall be reconstituted by the persons who vacated their offices under clause (a) of sub-rule (7) and shall recommence functioning as if it had not been superseded ,

Provided that the appropriate Government may at any time before the expiration of the period of supersession whether as originally specified under sub-rule (6) or as extended under this sub rule take action under clause (b) or clause (c) of this sub-rule].

<sup>1</sup>[51G. (1) The Central Government or the Provincial Government may by order, in respect of any articles or substances from the explosive or inflammable nature of which special risks are in the opinion of that Government likely to arise in the event of hostile attack, issue directions .—

Keeping dangerous articles and substances

(a) prohibiting the keeping of such articles or substances in or on such premises as may be specified in the order.

(b) prescribing the quantity of such articles or substances which may be kept in or on any such premises ,

(c) requiring the owner or occupier of any premises in or on which such articles or substances are kept to take such measures

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1. Inserted by D C. Dept. notification No 966-OR/41, dated the 1st November 1941.

as may be specified in the order for the protection of persons or property therein or thereon, or in the vicinity thereof ;

(d) for any incidental or supplementary matters for which the Government thinks it expedient for the purposes of the order to provide, including, in particular, the entering and inspection of premises to which the order relates with a view to securing compliance with the order.

2. If any person contravenes any order made in pursuance of this rule, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.]

<sup>1</sup>[51-H. (1) The Central Government or the Provincial Government may by order require the owner of Maintenance of water supply. or any person having control, of any source of water-supply which is or is capable of being used for drinking purposes,—

(a) to keep the same in good order, clear it from time to time of silt, refuse and decaying vegetation, and protect it from contamination, in such manner as may be specified in the order ,

(b) to make the same available at all reasonable times for the use of the public or of such section of the public as may be specified in the order.

(2) Any person authorised in this behalf by the Central Government or, as the case may be, the Provincial Government may at any time inspect any source of water-supply, in respect of which an order under sub-rule (1) has been made, for the purposes of seeing whether the order has been, or is being, complied with,

(3) If any person contravenes any of the provisions of an order made under this rule, he shall be punishable with imprisonment for a term which may extend to one month, or with fine, or with both ]

<sup>2</sup>[51-I (1) If in respect of any premises the Central Government or the Provincial Government considers Air raid shelters it necessary or expedient so to do for the

1 Inserted by D C, Dept. notification No, 1199-OR/42, dated the 28th February, 1942

2 Inserted by D C Dept. notification No 1293-OR/42, dated the 14th March, 1942.



purpose of affording protection to persons living or employed therein or thereon, that Government may by order require the owner of the premises to construct therein an air raid shelter, within such period and in accordance with such requirements as to lay-out, materials and construction as may be specified in the order.

(2) Any police officer, or any person authorised in this behalf by the Central Government or, as the case may be, the Provincial Government, may at any time enter and inspect any premises to which an order under sub-rule (1) applies for the purposes of seeing whether the order has been complied with

(3) If in the opinion of the Central Government or, as the case may be, the Provincial Government any person who has been ordered under sub-rule (1) to construct an air raid shelter has failed to do so, or is unlikely to complete doing so within the period specified in the order, that Government may cause the shelter to be constructed, and the cost thereof shall be recoverable from the owner of the premises by the Collector as if it were an arrear of land revenue.

(4) If any person contravenes <sup>1</sup>[any order made under this rule] he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both

<sup>2</sup>[51] (1) In this rule "the appropriate Government" means in relation to any cantonment area, the Central Government, and in relation to any other area the Provincial Government

Power to exempt air raid shelters from municipal taxation

(2) The appropriate Government may by order direct that any site or premises on which an air raid shelter is or has been constructed shall, on being certified by an officer appointed in this behalf by the appropriate Government, be exempted from any tax or rate, or from any enhancement of any tax or rate levied by a local authority to which the site or premises would not have been liable if the shelter had not been constructed ]

<sup>1</sup>Substituted by D C Dept notification No 1500-OR/42, dated 18th July 1942 for the words "any provisions of this rule"

2. Inserted by D C Dept, notification No 1911-OR/41 dated the 25th April 1942,

**51K (1)** The Central Government or the Provincial Government may by order, as respects such premises as may be specified in the order,

(a) require the owner or the occupier of the premises to take such measures as may be specified in the order, or

(b) authorise any person to take such measures as may be so specified, being measures which are in the opinion of that Government necessary to minimise danger to persons being in or in the vicinity of such premises in the event of hostile attack.

(2) If any person contravenes <sup>2</sup>[any order made under this rule], he shall be punishable with imprisonment for a term which may extend to one month or with fine, or with both.

**51L** The Central Government or the Provincial Government may, if it considers it necessary in the interests of public safety or the defence of British India so to do, by notified order declare the provisions of this rule to apply to any local area specified in the order; and thereupon so long as the order remains in force, it shall be lawful notwithstanding anything contained in the Indian Companies Act, 1913.—

(a) for the registrar to remove from any registration office situate within that area all or any of the documents connected with the registration of companies, keep them in such place of safety as he may think fit, and suspend the inspection thereof and the grant of any certificate, certified copy or extract therefrom under subsection (5) of section 248 of the said Act,

(b) for any company the registered office of which is situate in that area to remove from the registered office all or any of its registers, books of account and other documents and keep them in such place of safety as the directors of the company may think fit

Provided that any company removing any of its documents under this rule shall, either before such removal or as soon as prac-

1 Inserted by D C Dept notification No 1388-OR/42 dated the 4th May 1942

2 Substituted by D C Dept notification No 1500 OR/42, dated the 18th July 1942 for the words "any provisions of this rule."

3. Inserted by D. C. Dept Notification No 1414-OR/42, dated the 23rd May 1942.

licable thereafter, give notice of the removal to its members and to the registrar.]

52 (1) The Central Government or the Provincial Government Control of lights may by order provide—  
and sounds

(a) for prohibiting or regulating the display of lights of any specified description ,

<sup>1</sup>[(aa) for the screening of any lighting apparatus, whether for the time being alight or not, carried on, or attached to, any specified class of vehicles ,]

(b) for securing that, in specified circumstances, indication of the position of such premises and places, and warning of the presence of such vehicles and vessels, as may be specified shall be given by means of such lights as may be specified, and for prescribing the manner in which any apparatus used for the purpose of exhibiting such lights is to be constructed, installed or used,

(c) for prohibiting or regulating the use of roads by any particular class of traffic so far as appears to it to be necessary for avoiding danger consequent on compliance with any provisions of an order made under this rule which relate to the lighting of roads or of vehicles on roads ,

(d) for prohibiting or regulating such activities as may be specified, being activities which consist of or involve the emission of smoke, flames, sparks or glare or the making of noise

(2) An order under sub-rule (1), may be made so as to apply to any specified area or premises, may make different provisions as respects different parts of an area or different classes of premises, places, vehicles or vessels therein, may provide for exempting any premises, places, vehicles or vessels (either absolutely or conditionally) from the operation of any of the provisions of this order, and may contain such incidental and supplementary provisions as appear to the authority making the order to be necessary or expedient for the purposes of the order

(3) If any order made under sub rule (1) is contravened in respect of, or in relation to, any light, premises, place, vehicle, vessel, apparatus, road or activity to which the order applies, any

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<sup>1</sup> Inserted by D C Dept notification No 538-OR/40, dated the 31st August 1940.

police officer; or any person authorised in this behalf by the authority making the order, may take such steps and use such force as may, in his opinion, be reasonably necessary for giving effect to the order, and in the exercise of this power shall have a right of access to any land or other property whatsoever.

(4) If any order made under this rule is contravened in respect of any premises, place, vehicle or vessel, the occupier of the premises or place, the person in charge of the vehicle, or the master of the vessel, as the case may be, shall (without prejudice to any proceedings which may be taken against any other person) be deemed to have contravened the provisions of this rule;

Provided that in any proceedings which by virtue of this sub-rule are taken against any person in respect of a contravention of such an order on the part of another person, it shall be a defence for the accused to prove that the contravention or non-compliance occurred without his knowledge and that he exercised all due diligence to secure compliance with the order.

(5) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to six months <sup>1</sup>[or with fine or with both].

<sup>2</sup>[52A. (1) The Central Government or the Provincial Government may by order provide for requiring motor vehicles or any class of motor vehicles to be rendered, when not being driven, incapable of use by unauthorised persons and any such order may contain provisions with respect to the manner in which vehicles are to be rendered incapable of use as aforesaid]

(2) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

<sup>3</sup>[53 (1) The Central Government or the Provincial Government may, by order, direct that, subject to Curfew

<sup>1</sup> Substituted by D. C. Dept. notification No 701-OR/41, dated the 18th February 1941, for the words "and shall also be liable to fine"

<sup>2</sup> Inserted by D. C. Dept., Notification No 1214 OR/41, dated 7th April 1942.

<sup>3</sup> Substituted by D. C. Dept. notification No 518-OR/40, dated the 28th October 1940 for the original sub-rule (1)

any specified examination, no person present within any specified area shall between such hours as may be specified be out of doors except under the authority of a written permit granted by a specified authority or person.

(2) If any person contravenes any order made under this rule he shall be punishable with imprisonment for a term which may extend to six months <sup>1</sup>[or with fine or with both].

## PART IX

### CONTROL OF ARMS AND EXPLOSIVES.

54 \*[(1) The Central Government or the Provincial Government may, by general or special order, carrying and possession of arms and explosives prohibit, restrict or impose conditions on, the possession, carrying, use, sale or other disposal of—

(a) arms or articles capable of being used as arms,

(b) ammunition,

(c) substances (hereinafter referred to as explosive substances) which are, or are declared to be, explosives within the meaning of Indian Explosives Act, 1884]

(2) Without prejudice to any powers conferred by or under any other law for the time being in force,—

(a) if any police officer not below the rank of head constable or any other public servant authorised by the Central Government or a Provincial Government to act under this rule, suspects that any arms, <sup>2</sup>[articles capable of being used as arms] ammunition, or explosive substances are in or upon any land, vehicle, aircraft, vessel, building or other premises in contravention of an order made under sub-rule (1), he may enter if necessary by force and

1 Substituted by D C Dept notification No 701-OR/41 dated the 15th February 1941, for the words "and shall also be liable to fine"

2 Inserted by D C Dept notification No 516-OR/40, dated the 26th Oct 1940

search the land,<sup>6</sup> vehicle, aircraft, vessel, building or premises in or upon which he suspects that a contravention of an order made under sub rule (1) has been committed at any time of the day or night, and may seize any arms, <sup>1</sup>[articles capable of being used as arms,] ammunition, or explosive substances found therein or thereon which he suspects to be therein or thereon in contravention of such order ,

(b) if any police officer, or any other public servant authorised by the Central Government or the Provincial Government to act under this rule, suspects that any person is carrying, or is in possession of, arms, <sup>1</sup>[articles capable of being used as arms,] ammunition, or explosive substances <sup>2</sup>\* \* \* in contravention of an order made under sub-rule (1) such officer or any other public servant may stop and search or cause to be searched such person and seize any arms, <sup>1</sup>[articles capable of being used as arms] <sup>3</sup>[ammunition or explosive substances] <sup>2</sup>\* \* \* possessed or carried by him <sup>1</sup>[which such officer or other public servant suspects to be possessed or carried] in contravention of such order .

Provided that no female shall be searched in pursuance of the provisions of this rule except by a female

(3) Any arms, ammunition, explosive substances or other articles seized under the provisions of this rule may be destroyed or otherwise disposed of as may be ordered by the Provincial Government

(4) If any person contravenes any order made under this rule he shall be punishable with imprisonment for a term which may extend to five years \* [or with fine or with both].

1, Inserted by U C Dept notification No 516-OR/40, dated the 26th Oct. 1940

2. The words 'or other article' omitted, by D C Dept. notification No 515-OR/40, dated the 26th October, 1940

3. Substituted, by *ibid*, for the words "ammunition, explosive substances."

\* Substituted by D C. Dept notification No 701-OR/41, dated the 15th February 1941, for the words "and shall also be liable to fine"

55 (1) The Central Government may, as respects any premises used for producing, treating, handling Manufacture and transport of explosives and other dangerous articles or keeping any munitions of war, explosives or petroleum or any other substance to which any of the provisions of the Indian Explosives Act, 1884, or the Petroleum Act, 1934, apply, or may be applied, by order make provision for the safety of persons and property in, or in the vicinity or such premises, and by any such order may authorise the searching of persons entering or seeking to enter, or being within any premises to which the order applies

Provided that no female shall be searched in pursuance of such order except by a female

(2) The Central Government may by order make, in relation to the conveyance on vehicles or vessels of any description of such articles or substances as are mentioned in sub-rule (1), such provision as may appear to be necessary or expedient for the protection of persons or property against danger arising from, or in connection with, such conveyance.

(3) If any person contravenes any order made under this rule, he shall be punishable with imprisonment which may extend to two years or with fine or with both <sup>1</sup>

## PART X

### PUBLIC SAFETY AND ORDER

56. (1) <sup>2</sup>[The Central Government or the Provincial Government] may for the purposes of securing the defence of British India, the public safety, the maintenance of public order or the efficient prosecution of war, <sup>3</sup> by general or by special order,

Control of processions, meetings etc

<sup>1</sup> Substituted by D C Dept notification No 701-OR/41, dated the 15th February 1941, for the words 'and shall also be liable to fine'

<sup>2</sup> Substituted by D C Dept notification No 583-OR/10, dated the 21st October 1941 for the words, "The Provincial Government".

<sup>3</sup> Inserted by D C Dept notification No. 232-OR/5/39, dated the 9th September 1939,

prohibit, restrict or impose conditions upon, the holding of or taking part in public processions; meetings or assemblies 1\* \*

(2) For the purposes of sub-rule (1), any procession, meeting or assembly which is open to the public or to any class or portion of the public, whether held in a public or a private place and whether admission thereto is restricted by the issue of tickets or otherwise, shall be deemed to be a public procession, meeting or assembly as the case may be.

(8) Any police officer may take such steps, and use such force, as may be reasonably necessary for securing compliance with any order made under this rule.

(4) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

*Notes.*—This rule applies only to public processions, meetings or assemblies. It has nothing to do with private processions, meetings or assemblies. The expression "public assembly" in this rule is used in contra-distinction to private assembly. An assembly to be a public assembly, must be qualified both as to its purpose, and as to its composition. A public assembly is one the object of which is the furtherance of some public purpose, and the constitute of which involves the admission of members of the public, whether conditionally or un—conditionally. But to constitute a public assembly the public must have access to it, though it may be in limited numbers or on payment. If the assembly is confined to the members of a particular body or association, it would generally not be a public assembly. The place, where the assembly meets may have some relevance since it is obvious that a meeting which takes place in public hall is more likely to be a public meeting than one which take place in a private house. A.I.R 1943. Bom bay 137. The preamble to this rule is only relevant on the question of the validity of an order issued under it. But once the order has been promulgated, its construction must depend upon the language in which it is framed, and the

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4. The words "for such period as may be specified in the order" omitted by D.C. Dept notification No. 583-OR/40 dated the 21st October, 1949.



preamble has nothing to do with the construction of the order —  
*ibid*

56-A (1) In this rule—

(a) a “trade dispute” means a trade  
 Prevention of Har- dispute as defined in the Trade Disputes Act,  
 tals in places of employment. 1929

(b) “hartal” means any concentrated  
 cessation of work or refusal to work by a body of persons employ-  
 ed in any place of employment, except a cessation or refusal in  
 furtherance of trade dispute with which such body of persons is  
 directly concerned

(2) If in the opinion of the Provincial Government a body of  
 persons employed in any place of employment is likely to take part  
 in, or is taking part in, a hartal, then, without prejudice to any  
 other proceedings which may be taken in respect of such hartal  
 the Provincial Government may by order in writing require the  
 person owning or having the management of such place of employ-  
 ment to take, within such time as may be specified in the order  
 such measures as may be so specified to secure that the hartal  
 shall not take place, or, as the case may be, shall cease

(3) If in the opinion of the Provincial Government a place of  
 employment has been closed for reasons other than the furtherance  
 of a trade dispute, the Provincial Government may by order in  
 writing require the owner or persons having the management of  
 such place of employment to take, within such time as may be  
 specified in the order, such measures as may be so specified to  
 secure that the place of employment shall be opened and  
 shall remain open, for the unimpeded employment of persons  
 employed therein

(4) If any person contravenes the provisions of any order  
 made under this rule, he shall be punishable with imprisonment for  
 a term which may extend to five years or with fine which may  
 extend to five hundred rupees and to a further fine which may ex-

2 Inserted by D C Dept notification No 5-D.C (21)/43, dated  
 17th April, 1943

tend to one lac of rupees for every day after the first during which the contravention continues, or with both such imprisonment and fine as aforesaid.

(5)<sup>1</sup>

57. (1) The Central Government or the Provincial Government<sup>2</sup>

Power to restrict may by general or special order, prohibit; use of motor vehicles. restrict or impose conditions upon, the use or possession of any motor vehicle by any person, other than a member of His Majesty's forces, without a permit from such military authority as may be specified or from the police officer in the District in which the said person resides.

(2) If any police officer or any other person authorised by the Central Government or the Provincial Government<sup>2</sup> in this behalf suspects,

that any motor vehicle is or is kept in or upon any building, land, vehicle, vessel or other premises or is being used by any person in contravention of an order made under this rule, such officer or person may—

(i) enter and search such building, land, vehicle, vessel or other premises at any time of the day or night and may seize any motor vehicle found therein or thereon which he suspects to be therein or thereon in contravention of such order ;

(ii) stop such person and seize any motor vehicle which is being used in contravention of such order.

(3) <sup>3</sup>[The Central Government or the Provincial Government] may declare any motor vehicle seized in pursuance of this rule to be forfeited to His Majesty and thereupon such motor vehicle shall be disposed of in such manner as may be <sup>3</sup>[ordered by that Government].

(4) If any person contravenes any order made under this rule,

1 Deleted by D C D ept notification No 5 D C (54) 44 dated the 22nd January, 1944.

2. Substituted by D C Dept notification No, 895-SM41, dated the 25th July 1941, for the words "the Central Government may"

3 Substituted by *idid* for the words "ordered by the Central Government."

he shall be punishable with imprisonment for a term which may extend to six months \*[or with fine or with both]

58. (1) The Central Government or the Provincial Government Unlawful drilling. may, by general or special order, prohibit or restrict in any area any such exercise, movement, evolution or drill of a military nature as may be specified in the order,

(2) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to five years \*[or with fine or with both]

NOTES —Military Nature—A thing is of military nature when it resembles something done by or appertaining to soldiers. Where the object of the evolutions performed by the accused and a third man is clearly to enable a large body of men to respond immediately to word of command so that it would be possible for one man in charge of a large body of persons to make them execute his will without the need of any elaborate explanations or direction the accused do infringe R. 58 (1)—A.I.R. 1943 Mad 439. See notes under S, 84(6)

59 \*\*[(1) If the Central Government or the Provincial Government is satisfied that—

etc (a) the wearing in public of any dress article or apparel resembling any uniform or part of a uniform required to be worn by a member of His Majesty's Forces or by a member of any official Force or of any force constituted under any law for the time being in force,

(b) the wearing or display in public of distinctive dress or article of apparel or any emblem,

would be likely to prejudice the public safety maintenance of public order, the defence of British India or the prosecution of the war, the Central Government or the Provincial Government as the case may be, may, by general or special order, prohibit or restrict the wearing or display in public of any such dress, article of apparel or emblem ]

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\* Substituted by D.C. Dept notification No 701-OR/41, dated 13th February 1941, for the words "and shall also be liable to fine"

\*\* Substituted by D.C. Dept notification No 538-OR/40, dated 3rd August 1940, for the original sub-rule (1).

(2) For the purposes of this rule, a dress, an article of apparel or an emblem shall be deemed to be worn or displayed in public if it is worn or displayed so as to be visible, to a person, or to any place to which the public have access.

(3) If any person contravenes any order made under this rule he shall be punishable with imprisonment for a term which may extend to three years <sup>1</sup>[or with fine or with both].

<sup>2</sup>[59A. (1) Any officers of Government authorised in this Powers to require behalf by general or special order of the the assistance of cer- Provincial Government may, within such tain persons. area as may be specified in the order, re

quire any male person in that area to assist in the maintenance or restoration of law and order in the protection of property for such period and in such manner as the officer may direct.

(2) If any person fails to comply with any lawful direction given to him under sub-rule (1), he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

59B <sup>3</sup>[(1) A District Magistrate, a Sub-divisional Magistrate, Powers to appoint any police officer not below the rank of special police officers Deputy Superintendent, or any other officer of Government authorised in this behalf by the Provincial Government may by order appoint persons to act as special police-officers for such time and within such limits as may be specified in the order and every person so appointed shall have the same powers, privileges and protection, shall be liable to perform the same duties and <sup>4</sup>[subject to the same disciplinary measures], and shall be subordinate to the same authorities as the ordinary officers of police within those limits.

1 Substituted by D C Dept, notification No. 701-OR/41, dated 15th February 1941 for the words " and shall also be liable to fine "

2 Rules 59A and 59B inserted by D C. Dept notification No 272 S.M /41 dated the 2nd January 1942

3. Re-numbered by D. C Dept. notification No. 1349-S M /42, dated the 11th April 1942.

4. Substituted by *ibid* for the words ' amenable to the same penalties."

<sup>1</sup>[(2) If any person, being appointed a special Police officer as aforesaid, neglects or refuses, without sufficient excuse, to serve as such or to obey such lawful orders or directions as may be given to him for the performance of his duties, or withdraws from the duties of his office without permission, he shall be punishable with imprisonment for a term which may extend to three months or with fine not exceeding one hundred rupees or with both]

## PART XI.

### SHIPPING AND AIRCRAFT

<sup>2</sup>[59C [(1)] Any person authorised in this behalf by the Central Government may by order direct that  
 Requiring vessels to leave ports any vessel at any port in British India shall leave the port within such period as may be specified in the order and shall proceed to such other port in British India by such route as may be so specified

(2) If any order made under sub-rule (1) is contravened the master of the vessel and the owner or any other person having the management thereof shall each be deemed to have contravened the order, and shall be punishable with imprisonment for a term which may extend to five years or with fine or with both]

60 (1) The Provincial Government as respects inland waters, and the Central Government as respects <sup>3</sup>[any  
 General control of navigation waters], may by order make provision for regulating the places in or to which vessels may be or go, and the movements, navigation, pilotage, anchorage mooring, berthing and lighting of vessels, in such waters

(2) If in the case of any vessel any order made under sub-rule

1. Inserted by D C Dept notification No 1349-SM/42, dated the 11th April 1942

2. Inserted by D C Dept notification No 1330-OR/42, dated the 5th April 1942

3. Substituted by D C Dept notification No 1617-OR/42, dated the 24th October 1942, for the words "waters other than inland waters"

4. Substituted by D C Dept notification No 701-OR/41, dated the 15th February 1941 for the words "and shall also be liable to fine."

(1) If the master of the vessel shall be punishable with imprisonment for a term which may extend to five years<sup>1</sup> [or with fine or with both].

\*[60A. (1) The Central Government may, if it appears to it to be necessary or expedient so to do for the purpose of facilitating the protection of shipping or the efficient prosecution of war by order require any vessel registered in British India to leave, or to keep away from, any area specified in the order, and any such order may make provision for such incidental and supplementary matters as appear to the Central Government to be necessary or expedient.

(2) If in the case of any vessel registered in British India an order under sub-rule (1) is contravened or not complied with by the master of the vessel and the owner or other person having the management thereof shall each be punishable with imprisonment for a term which may extend to five years<sup>1</sup> [or with fine or with both]

61. (1) No person shall, except under permission granted by the Central Government discontinue, alter or remove, or make, any variation in the mode of exhibiting or operating, any light, buoy, beacon or other apparatus used for the purpose of aiding the navigation of shipping or aircraft.

(2) The Central Government may make orders for prohibiting or restricting the exhibition or operation of, or requiring the removal, alteration or concealment of, or the making of any variation in the mode of exhibiting or operating, any such light, buoy, beacon or other apparatus as aforesaid

(3) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to five years<sup>1</sup> [or with fine or both]

\* Inserted by D. G. Dept. notification No. 1330-OR/42, dated the 5th April 1942

<sup>1</sup> Substituted by D. G. Dept. notification No. 701-OR/41, dated the 15th February 1941, for the words "and shall also be liable to fine".

62. (1) The Central Government may by order make

Measures for safety provision—  
of Indian vessels.

(a) for securing that any vessel registered in British India shall not, except under permission granted by the Central Government, proceed to sea from any port (whether within or outside British India) unless such requirements in respect of the alteration of the structure or external appearance of the vessel, and in respect of the equipping of the vessel with any particular apparatus, contrivance, appliance or defensive equipment, as may be contained in the order have been complied with ;

(b) for securing the proper maintenance and efficient use of any apparatus, contrivance, appliance or defensive equipment with which any such vessel is equipped in pursuance of the order ,

<sup>1</sup>[(bb) for prescribing the wireless telegraph services to be maintained and the number, grade and qualifications of operators and watchers to be carried in connection with the operation of any wireless telegraphy apparatus provided in any such vessel, whether in pursuance of the order or otherwise ,]

(c) for any incidental or supplementary matters for which it appears to the Central Government to be necessary for the purposes of the order to provide.

(2) An order under sub-rule (1) may be made so as to apply either to a particular vessel or to vessels of a particular class, and so as to apply to any such vessel or vessels either wherever it or they may be or while in such waters, or engaged on such voyages, as may be specified.

(3) If any vessel proceeds or attempts to proceed to sea in contravention of an order made under this rule, the master of the vessel and the owner or other person having the management shall either be punishable with imprisonment for a term which may extend to five years or with fine or with both.

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<sup>2</sup> Inserted by D.C. Dept notification No 547-OR/40, dated the 17th August 1940.

62 A. (1) "The Central Government may, in respect of any Measures for vessel or class of vessels while in port in safety of vessels British India, by order make provision—  
in ports.

(a) for securing that there shall be kept on board such vessel or vessels such class or description of persons, or such number of persons, or such number of persons of such class or description, as may be specified in the order ;

(b) for regulating the carrying out of any operations on board such vessel or vessels."

(2) Any member of His Majestys' forces acting in the course of his duty as such, or any other person authorised in this behalf by the Central Government, may at any time board and inspect any vessel to which any such order applies for the purpose of ascertaining whether the provisions of the order are being complied with

(3) If any order made under sub-rule (1) is contravened, the master of the vessel and the owner or any other person having the management thereof shall each be deemed to have contravened the order, and shall be punishable with imprisonment which may extend to six months or with fine or with both.

62 AA<sup>2</sup> (1) Any person authorised by the Central Government in this behalf may give directions to the owner or master of any vessel which is for the time being at a port in British India or of any vessel registered in British India which is for the time being at a port outside British India requiring him—

(a) to take such steps as may be specified in the directions for the purpose of securing that, while the vessel remains at the port, fires occurring in the vessel as the result of hostile attack will be immediately detected and combated ,

(b) to secure that, while the vessel remains at the port, either at all times or during such periods as may be specified in the directions—

1. Substituted by D C Dept notification No 701-OR/41, dated the 15th February, 1941, for the words "and shall also be liable to fine"

2. Substituted by D.C notification No 5 D C (45)-OR/43, dated the 21st August 1943.



(1) in a case where the vessel is equipped with a gun or other instrument or device capable of being used to defend the vessel against hostile attack, that the gun, instrument or device will be manned ,

(2) in a case where the vessel is propelled by mechanical power, that the vessel is capable of being moved under her own and of proceeding to sea immediately when ordered to do so ,

(3) for the purpose of taking such steps or securing such matters as aforesaid, to secure that such number of persons, or such number of persons of such class or description, as may be specified in the directions, shall be or remain on board the vessel, either at all time while the vessel remains at the port or during such periods as may be so specified ,

(4) to do or not to do such other things as may appear necessary or expedient to do or not to do for the purpose of securing the safety of the vessel or preventing the vessel from endangering other vessels or property at the port in the event of hostile attack.

(2) Any member of His Majesty's forces acting in the course of his duty as such, or any other person authorised in this behalf by the Central Government, may at any time board and inspect any vessel to which any directions given under sub-rule (1) relate for the purpose of ascertaining whether the directions are being complied with.

<sup>1</sup>[(2A) If any vessel in any port in British India is on fire or has suffered damage by fire or otherwise, any person authorised by the Central Government in this behalf, if he considers that such vessel constitutes a danger to other vessels or to the efficient working of the port, may give directions to the owner or master of such vessel requiring him to scuttle or beach the vessel in such position as may be specified in the directions].

(3) If the owner or master of any vessel to which any directions, given under sub-rule (1) <sup>1</sup>[or sub-rule (2A)] relate fails to comply with such directions he shall be punishable with imprisonment for a term which may extend to three years, or with fine or with both <sup>2</sup>

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<sup>1</sup> Inserted by D. C. Dept. notification No. 1457-OR/42, dated the 12<sup>th</sup> June 1942.

1[62 B. (1) In this rule, unless the context otherwise requires, Loading of ships. (c) "the Act" means the Indian Merchant Shipping Act, 1923 ;

(b) "assigning authority" has the same meaning as in the loadline rules ;

(c) "load-line rules," "load-line certificate" and "international load-line certificate" have the same meanings as in the Act ;

(d) "unsafe ship" has the same meaning as in sub-section (1) of section 232 of the Act.

(2) Sub-section (1) of section 221 of the Act shall have effect, in relation to a ship to which this sub-rule applies, subject to the following amendments,—

(a) where the ship is entitled under the load-line rules to be loaded to the depth indicated by the summer load-line prescribed by the said rules, the appropriate load-line for the purpose of said sub-section shall be tropical load-line so prescribed ,

(b) where the ship is entitled under the load-line rules to be loaded to the depth indicated by the tropical load-line prescribed by the said rules, the appropriate load-line for the purposes of the said sub-section shall be the tropical fresh water load-line so prescribed.

(3) Subject to the provisions of this rule, sub-rule (2) shall apply to all British ships registered in British India (not being exempt from the provisions of Part V of the Act, relating to load-lines) with such exceptions and subject to such restrictions as may be specified in a general or special order by the Central Government

(4) Sub-rule (2) shall not apply to a ship unless the load-line certificate issued in respect thereof bears an endorsement in the prescribed form signed by or on behalf of an assigning authority stating —

(a) that the ship is one to which the said sub-rule applies ;

(b) the effect of the said sub-rule ,

(c) any restrictions specified in any such order subject to

which the said sub-rule applies to the ship

(5) A certificate issued in respect of a ship shall not be endorsed by or on behalf of an assigning authority in pursuance of sub-rule (4), unless the authority is satisfied that the ship, if loaded in accordance with sub-section (1) of section 221 of the Act [as amended by sub-rule (2)], will not be an unsafe ship.

(6) It shall be the duty of the owner of every ship mentioned in sub-rule (3) not being a ship excepted by an order made by the Central Government under that sub-rule, to apply in writing to an assigning authority within the prescribed time for endorsement of the ship's load line certificate in pursuance of sub-rule (4)

(7) After receiving any such application with respect to a ship, the assigning authority may by order in writing served on the owner or master of the ship exercise all or any of the following powers, namely —

(a) require such documents and information with respect to the ship as may be specified in the order to be delivered to it within such period as may be so specified ;

(b) require the ship to be submitted for survey at such place and within such period as may be so specified ,

(c) in a case where it appears to the assigning authority (whether as the result of a survey or otherwise) that the ship, if loaded as mentioned in sub-rule (5) would be an unsafe ship, require the ship, within such period as may be so specified, to be altered in such manner, or to be equipped with such apparatus, contrivances or appliances, as may be so specified, being alterations or equipment which in its opinion will cause the ship not to be an unsafe ship if loaded as aforesaid ,

(d) require the ship's load-line certificate to be delivered to it for endorsement within such period as may be specified ,

(8) The provisions of clause (ii) of sub-section (1) of section 224C and sub-section (1) of section 224D of the Act shall, in the case of a ship, the load-line certificate of which has been endorsed by virtue of sub-rule (4), have effect as if the particulars mentioned in the said provisions included particulars of the endorsement

(9) Where the load-line certificate of a ship has been

endorsed by virtue of sub-rule (4) and the ship ceases, by virtue of an order under sub-rule (3) to be a ship to which sub-rule (2) applies, the owner of the ship shall forthwith deliver up the certificate to an assigning authority who shall cancel the endorsement.

(10) Where the Central Government is satisfied that provision has been made by the law of any country to which the International Convention respecting Load Lines, 1930, applies similar to the provisions of sub-rule (2) and for the endorsement of load-line certificates of ships of that country in manner similar to that required by sub-rule (4) it may by order direct that, where a certificate issued in respect of a ship of that country bears such an endorsement in such form as may be specified in the order, the certificate—

(a) shall be deemed for the purposes of Part V of the Act, to be a valid international load-line certificate, notwithstanding that it bears the endorsement, if, but for the endorsement, it would be such a certificate; and

(b) shall have effect, for the purposes of the said Part V, as varied by the endorsement

(11) Where an order is in force under sub-rule (10) as respects ships of any country, section 224-1 of the Act shall have effect in relation to any such ship as if the following sub-clause were substituted for sub-clause (a) of clause (ii) thereof, namely :—

‘(a) in case of a ship in respect of which there is produced on such an inspection as aforesaid a valid international load-line certificate, the load-line appearing by the certificate to indicate the maximum depth to which the ship is for the time being entitled to be loaded,

(12) If any person contravenes any of the provisions of this rule, <sup>1</sup>[or any order made thereunder] he shall be punishable with fine which may extend to one thousand rupees.]

262C. (1) The Central Government may for the purpose of Provisioning of securing the defence of British India, the vessels public safety, the efficient prosecution of war

1 Inserted by Dept. notification No. 1500-OR/42, dated the 18th July 1942.

2. Inserted by D. C. Dept. notification No. 981-OR/42, dated the 20th Dec. 1941.

or for maintaining supplies and services essential to the life of the community, by general or special order make provision <sup>¶</sup>for requiring any—

(a) vessel proceeding to sea from a port in British India on a voyage to any port <sup>1</sup>[in the continent of India], Burma or Ceylon,

(b) vessel registered in British India proceeding to sea from any port, to have on board such emergency rations <sup>2</sup>[supplies of fuel or other stores] as may be specified in the order

(2) Any provision of an order under sub-rule (1) may be framed so as to apply to any specified class of such vessels and so as to apply to any such vessel while engaged in such trades as may be specified in the order

(3) If any vessel proceeds or attempts to proceed to sea without complying with an order under sub-rule (1) or if otherwise there is any contravention of such an order in the case of a vessel, the master of the vessel and the owner or other person having the management thereof shall each be punishable with imprisonment for a term which may extend to six months or with fine or with both ]

63 (1) The Central Government may as respects any class of Employment in vessels registered in British India, by order Indian vessels make provision—

(a) for securing that, subject to any exemptions for which provision may be made by the order, any such class of persons as may be specified in the order shall not be employed on board the vessels to which the order applies ,

(b) for prohibiting the employment of any person or class of persons on board such vessels unless they are holders of certificates of identity issued in such form and manner as may be specified and for determining the circumstances in which certificate of identity may be granted and revoked

1. Substituted by D C Dept notification No 1481-OR/42, dated the 27th June 1942, for the words 'In India

2 Inserted by D C Dept notification No 1330-OR/42, dated the 4th April 1942

(2) An order under sub-rule (1) may be made so as to restrict the employment of persons either in any capacity or in such capacity as may be specified and so as to restrict the employment of persons on such vessels as aforesaid either wherever they may be or while in such waters, or engaged in such trades or on such voyages, as may be specified

(3) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to five years <sup>1</sup>[or with fine or with both]

<sup>3</sup>[63A. Notwithstanding anything contained in section 12 of the Indian Merchant Shipping Act, 1923, an officer who has been authorised by or on behalf of the competent authority in the United Kingdom under Regulation 47C of the Defence (General) Regulations, 1939, to act as master or officer of any grade of a British ship shall, while acting in pursuance of the authorisation, be deemed to be duly certificated under the said Act]

64. (1) The Central Government, with a view to preventing the employment abroad, in connection with the management of vessels registered in British India of enemy aliens or persons connected with the enemy, may by order direct that, as from such date as may be specified, the owner, manager or charterer of any vessel registered in British India, being a person resident in British India, or a corporation incorporated under the law of British India, shall not employ in any foreign country or territory, in connexion with the management of the vessel, any person other than a person approved for the purpose by the Central Government; and an order under this rule may be made so as to apply either generally to employment in all foreign countries or territories or to employment in such foreign countries or territories, or such class of foreign countries or territories, as may be specified in the order,

(2) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to five years, <sup>1</sup>[or with fine or with both]

<sup>1</sup> Substituted by D Dept notification No 701-OR/41, dated the 15th Feb. 1941, for the words "and shall also be liable to fine"

<sup>2</sup> Inserted by D. C. Dept. notification No. 537 OR/40, dated the 3rd August 1940.

65 (1) Without prejudice to any order made under sub-rule (1) of <sup>1</sup>[rule 60], the Central Government, Control of trade by sea. with a view to securing that vessels registered in British India are used in such manner only as the Central Government considers expedient in the interests of the defence of British India and the efficient prosecution of the war, or for the maintenance of supplies and services essential to the life of the community, may by order provide that any such vessel registered in British India as may be specified in the order shall not proceed to sea from any port (whether within or outside British India) except under the authority of a licence granted by such authority or person as may be specified in the order, and any such order may contain provisions whereby a licence under the order may be granted subject to such limitations and conditions as the authority or person granted the licence thinks fit to impose with respect to—

(a) the trades in which the vessel may be engaged and the 'voyages which may be undertaken by the vessel ,

(b) the class of cargoes or passengers which may be carried in the vessel ,

(c) the hiring of the vessel and the terms upon which cargoes or passengers may be carried in the vessel , and may also contain provisions for requiring any vessel in respect of which such a licence is in force to comply with any directions given on behalf of the Central Government as to the ports to which and the routes by which the vessel is to proceed for any particular purposes,

(2) Any provisions of an order made under sub-rule (1) may be framed so as to apply to any such vessels either wherever they may be or while in such waters or engaged in such trades or such voyages, as may be specified

(3) Without prejudice to any of the provisions of sub-rule (1) and (2), the Central Government, with a view to regulating the use of vessels in the coasting trade, may by order provide that no vessel shall proceed to sea from any port in British India on a voyage to

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<sup>1</sup> Substituted by D C Dept notification No 250-OR/39, dated the 13th October 1939, for the words and figures "rule 61"

any other such port except under the authority of a licence granted by such authority or person as may be specified in the order.

(4) Without prejudice to any order made under sub-rule (1) of rule 60 or to any other provision of these Rules, the Central Government may make such orders with respect to any <sup>2</sup>[vessel or class of vessels]—

(a) for securing that goods or passengers shall not be put off or taken on board <sup>1</sup>[such vessel or class of vessels] in British India elsewhere than at a prescribed port,

(b) for determining the class of goods or passengers that may be put off or taken on board <sup>1</sup>[such vessel or class of vessels] at a port in British India, <sup>2</sup>[or

(c) for determining the order of priority in which specified goods or classes of goods shall be put off or taken on board such vessel or class of vessels at a port in British India ]

as the Central Government considers necessary or expedient in the interests of the defence of British India and the efficient prosecution of the war, or for maintaining supplies and services essential to the life of the community.

(5) If any vessel proceeds or attempts to proceed to sea in contravention of an order made under this rule, or if otherwise there is any contravention of such an order in the case of a vessel, the master of the vessel and the owner or other person having the management thereof shall each be deemed to have contravened such order and shall be punishable with imprisonment for a term which may extend to five years <sup>3</sup>[or with fine or with both].

66. <sup>4</sup>[(1) The Central Government may by order in writing

Requisitioning of requisition—  
vessel.

(a) any vessel in British India or anything on board a vessel in British India,

<sup>1</sup> Substituted by D. C. Dept notification No. 200-OR/41 dated the 13th October, 1939, for the words "particular vessel"

<sup>2</sup> Inserted by *ibid.*

<sup>3</sup> Substituted by D. C. Dept' notification No 701-OR/41, dated the 15th February 1941 for the words "and shall also be liable to fine."

<sup>4</sup> Substituted by D.C Dept notification No 324-OR/40, dated 17th July 1940 for the original rule. (1).



(b) any vessel registered in British India, or any thing on board such vessel, wherever such vessel may be ,  
and may make such further orders as appear to the Central Government to be necessary or expedient in connection with the requisitioning

Provided that the preceding provisions of this rule shall not authorise the requisitioning of any vessel registered in the United Kingdom or in any Dominion with the meaning of the Statute of Westminster, 1931, or of anything on board such vessel.]

<sup>1</sup>[(1a) Any vessel requisitioned under the Requisitioning of Vessel Ordinance, 1939, shall be deemed to have been requisitioned by order of the Central Government under sub-rule (1) ]

<sup>2</sup>[(2) Where the Central Government has requisitioned any vessel under sub-rule (1), the Central Government may use or deal with the vessel for such purpose and in such manner as may appear to it to be expedient, and may acquire it by serving on the owner or person having the management thereof <sup>3</sup>[or where the owner or person having the management thereof <sup>4</sup> (or as the case may be published in the official Gazette) is not readily traceable or the ownership is in dispute, by publishing in the official gazette] a notice stating that the Central Government has acquired it in pursuance of this rule.

Where such notice of acquisition is so served or published on the owner or person having the management of the vessel, then at the beginning of the day on which the notice is served the vessel shall vest in the Central Government free from any mortgage, pledge, lien or other similar obligation, and the period of the requisition thereof shall end].

<sup>5</sup>[(2a) The Central Government may by order require the

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1 Inserted by D C Dept notification No 324-OR/40 dated the 10th Feb, 1940

2 Substituted by Defence Co-ordination Department notification No, 900-SM/41, dated the 11th Oct 1941 for the original sub-rule (2)

3 Inserted by D C Dept notification No 1336-OR/2/42 dated the 25th April 1942

4 Inserted by D C notification No 5—D C (19)/53 dated 1st May 1943

5 Inserted by D C, Dept notification No 532-OR/40 dated the 21st September, 1940.

owner, or the person having the management, of any vessel <sup>1\*</sup> \*  
 \* \* to furnish to such authority as may be specified in the order such information in his possession relating to the vessel or to things on board the vessel (being information which may reasonably be required of him in connection with the execution of this rule) as may be so specified ],

(3) If any person contravenes any order made under this rule he shall be punishable with imprisonment for a term which may extend to three years <sup>2</sup>[or with fine or with both].

67. (1) No person shall transfer or acquire any interest in  
 Power to restrict any vessel registered in British India with  
 the transfer of out the previous consent in writing of the  
 vessels.  
 Central Government.

(2) Notwithstanding anything contained in section 53 of the Merchant Shipping Act, 1894, an application made (whether before or after the commencement of the Ordinance) for the transfer of the registry of a ship registered in British India from one port to another, shall not be granted except with the approval of the Central Government.

(8) If any person contravenes any of the provisions of sub-rule (1), he shall be punishable with imprisonment for a term which may extend to seven years <sup>3</sup>[or with fine or with both],

<sup>4</sup>[(4) Any transaction effected in contravention of the provisions of sub-rule (1) shall be void and unenforceable ]

<sup>5</sup>[67A. (1) In this rule " foreign ship " means a ship which  
 Powers to restrict is not a ship registered in the British Isles, or  
 use of foreign ship in India, or in British Burma, or in any

1. The words " registered in British India " omitted by D C Dept notification No 1287-OR/42 dated the 11th March 1942.

2 Substituted by D C Dept notification No 701-OR/41, dated the 15th February 1941 for the words " and shall also be liable to fine "

3 Inserted by D C Dept notification No 701-OR/41, dated 15th Feb 1941 for the words " and shall also be liable to fine "

4 Inserted by D C Dept notification No 115-OR/39' dated the 11th November 1939

5. Inserted by D C Dept notification No 1040-OR/21 dated the 9th Oct. 1941

Dominion as defined in the Statute of Westminster, 1931, or in any Colony.

(2) The Central Government may by notified order make provisions for regulating or restricting the charter by persons in British India, whether on their own behalf or as agents for other persons whether within or without British India, of foreign ships or of space or accommodation therein and the entering into agreements for the carriage of goods in foreign ships by or on behalf of persons in British India.

(3) If any person contravenes the provision of any order made under sub-rule (2), he shall be punishable with fine.]

68 (1) The Central Government may by order in writing require the owner, or the person having the accommodation in management, or the master of any vessel registered in British India—

(a) to place at the disposal of Government the whole or any part of the space or accommodation available on such vessel, and to employ such space or accommodation for the carriage of any persons, animals or things to any place specified in the order, and

(b) to undertake or permit to be undertaken such structural additions or alterations on board such vessel as may be necessary to fit it for the safe carriage of any persons, animals or things

(2) Whenever in pursuance of clause (a) or sub-rule (1) any space or accommodation in any vessel is placed at the disposal of the Central Government <sup>1</sup>[and the circumstances are not such as to render the provisions of <sup>2</sup>[section 19 of the Defence of India Act, 1939,] applicable], the owner of such vessel shall be paid therefore at such rates as the Central Government may by order made in this behalf determine.

(3) Whenever in pursuance of clause (b) of sub-rule (1) the Central Government requires any structural additions or altera-

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<sup>1</sup> Inserted by D C Dept notification No 209-OR/39 dated the 8th Oct 1939

<sup>2</sup> Substituted by D C Dept notification No 261-OR/39 dated the 14th Nov. 1939, for the words and figures " section 18 of the Ordinance."

tions to be undertaken on board any vessel the owner of such vessel shall be paid the actual cost of such additions or alterations

(4) Where, in respect of any vessel, there subsists between a British subject resident in India or corporation incorporated under the law of British India and any other person a character-party or other contract under which the first-mentioned person is entitled to possession of it, or has the right to have any articles carried in it or to use any space or accommodation in it, the Central Government may serve on the first-mentioned person, in any manner appearing to the Central Government to be convenient, a notice stating that on such date as may be specified in the notice his rights and liabilities under the contract will be transferred to the Central Government, and in that event the contract shall, as regards any rights exercisable, or liabilities incurred on or after the said date, have effect, subject to the provisions of sub-rule (1), as if the Central Government were a party to the contract instead of the person on whom the notice was served, and as if for any reference in the contract to that person there were substituted a reference to the Central Government.

(5) The Central Government may at any time cancel a notice served under the provisions of sub-rule (4) in respect of a contract, and thereupon the provisions of the said sub-rule shall, unless and until a further notice is served thereunder in respect of that contract, cease to operate in relation to the contract as regards any rights exercisable, or liabilities incurred, on or after the date on which the cancellation takes effect.

(6) If any order made under sub-rule (1) is contravened, the master of the vessel and the owner or other person having the management thereof shall each be deemed to have contravened such order and shall be punishable with imprisonment for a term which may extend to three years <sup>1</sup>[or with fine or with both]

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<sup>1</sup> Substituted by D C Dept. No 701-OR/41 dated 15th Feb 1941 for words " and shall also be liable to fine."

69. <sup>1</sup>[(1) The Central Government, if it appears to it to be stopping of vessels necessary or expedient so to do in the interests of the defence of British India, the public safety or the efficient prosecution of war, or for maintaining supplies and services essential to the life of the community, may by order direct—

(a) as regards any class of vessels in British India, that no vessel of that class shall leave any port or place in British India at which it may be, or

(b) as regards any particular vessel at any port or place in British India, that vessel shall not leave that port or place, except with permission granted by such authority as may be specified in the order

(2) If any vessel leaves or attempts to leave any port or place in contravention of an order made under sub-rule (1), the master of the vessel shall be punishable with imprisonment for a term which may extend to five years <sup>2</sup>[or with fine or with both]

70 <sup>3</sup>[(1) No person shall without the previous consent in writing of the Central Government transfer the transfer of air-craft or acquire any interest in any aircraft registered under the Indian Aircraft Act, 1934, <sup>4</sup>[wherever such aircraft may be] whether the certificate of registration of such aircraft is in force or not, or in any part of an aircraft, or in any materials identified, under any system recognised by the Director of Civil Aviation in India, for the purpose of the construction of aircraft,

<sup>1</sup>[1A) Any transaction effected in contravention of the provisions of sub-rule (1) shall be void and unenforceable]

(2) If any person contravenes any of the provisions of sub-rule (1), he shall be punishable with imprisonment for a term which may extend to seven years <sup>2</sup>[or with fine or with both],

1 Substituted by Dept notification No 484-OR/ 0 dated the 1st Feb 1941, for the original rule which was inserted by D C Dept notification No 3540/40 dated the 18th May, 1940

2 Substituted by D C Dept notification No 701-OR/41 dated the 15th Feb 1941, for the words ' and shall also be liable to fine'

3 Substituted by D C Dept notification No 115-OR/39 dated the 11th November 1939 for the original sub rule (1)

4. Inserted by D C. Dept. notification No 631 OR/40, dated the 8th Feb, 1941.

71. The pilot of any aircraft-flying in contravention of any provision of, or of any rule made under, the Enforcement of provisions of the Indian Aircraft Act, 1934, shall, on being Indian Aircraft Act and Rules. warned in the manner prescribed by the rules made under that Act, immediately land, and if such pilot fails to comply with such warning as aforesaid, any commissioned officer of His Majesty's force may take or cause to be taken such action as may be necessary to terminate the flight.

72. (1) The Central Government, subject to the provisions of sub-rule (2), may by order in writing Requisitioning of aircraft. requisition—

(a) any aircraft in British India and anything on board or forming part of any aircraft in British India,

(b) any aircraft registered under the Indian Aircraft Act, 1934, or anything on board or forming part of such an aircraft wherever such aircraft may be ;

(c) any machinery, plant, material or thing used for the operation, manufacture, repair or maintenance of aircraft ; and may give such further orders as appear to the Central Government to be necessary or expedient in connection with the requisitioning

(2) Nothing in sub-rule (1) shall authorise the requisitioning of any aircraft registered in the United Kingdom, or any Dominion within the meaning of Statute of Westminster, 1931, or of anything on board or forming part of such aircraft.

1(3) Where the Central Government has requisitioned any aircraft under sub-rule (1), the Central Government may use or deal with the aircraft for such purpose and in such manner as may appear to it to be expedient, and may acquire it by serving on the owner or person having the management thereof <sup>2</sup>[or where the owner person having the management thereof is not readily traceable or the ownership is in dispute, by publishing in the official

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1 Substituted by D C Dep't notification No 900-SM/41 dated the 11th Oct 1941 for the original sub-rule (3)

2, Inserted by D C Dep't notification No 1336-OR/2/42 dated the 25th April 1942.

gazette] a notice stating that the Central Government has required it in pursuance of this rule,

Where such notice of acquisition is served on the owner or person having the management of the aircraft,\* or as the case may be, published in the official Gazette, then at the beginning of the day on which the notice is so served or published the aircraft shall vest in the Central Government free from any mortgage, pledge, lien or other similar obligation, and the period of the requisition thereof shall end ]

<sup>1</sup>[(3a) The Central Government may by order require the owner, or the person having the management of, any such aircraft or thing as is referred to in sub-rule (1) to furnish to such authority as may be specified in the order such information in his possession relating to the said aircraft or thing (being information which may reasonably be required of him in connection with the execution of this rule) as may be so specified ]

(4) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to three years <sup>2</sup>[or with fine or with both]

73 (1) The Central Government may, by order in writing  
Power to take up require the owner or the person having the  
accommodation in management or the pilot of any aircraft regis-  
aircraft  
tered under the Indian Aircraft Act, 1934,—

(a) to place at the disposal of Government the whole or any part of the space or accommodation available in or on such aircraft and to employ such space or accommodation for the carriage of any persons, animals or things to any place specified in the order, and

(b) to undertake or permit to be undertaken such structural additions or alterations to such an aircraft as may be necessary to fit it for the safe carriage of any persons, animals or things

1. Inserted by D C Dept notification No 532-OR/40, dated the 21st Sept 1940

2 Substituted, by D C Dept notification No 701-OR/41, dated the 15th February 1941, for the words shall also be liable to fine "

\* Inserted by D C Dept notification No 5D C(23)/43 dated the 1st May 1943

(2) Whenever in pursuance of clause (a) of sub-rule (1) any space or accommodation in any aircraft is placed at the disposal of the Central Government <sup>1</sup>[and the circumstances are not such as to render to provisions of <sup>2</sup>[section 19 of the Defence of India Act, 1939,] applicable], the owner of such aircraft shall be paid therefore at such rates as the Central Government may by order made in this behalf determine.

(3) Whenever in pursuance of clause (b) of sub-rule (1) the Central Government requires any structural additions or alterations to be undertaken on board any aircraft, the owner of such aircraft shall be paid the actual cost of such additions or alterations

(4) Where in respect of any aircraft there subsists between a British subject resident in India or a corporation incorporated under the law of British India and any other person a contract under which the first mentioned person is entitled to possession of it, or has the right to have any articles carried in it or to use any space or accommodation in it, the Central Government may serve on the first-mentioned person, in any manner appearing to the Central Government to be convenient, a notice stating that on such date as may be specified in the notice his rights and liabilities under the contract will be transferred to the Central Government, and in that event the contract shall, as regards any rights exercisable, or liabilities on or after the said date, have effect, subject to the provisions of sub-rule (1), as if the Central Government were a party to the contract instead of the person on whom the notice was served, and as if for any reference in the contract to that person there were substituted a reference to the Central Government.

(5) The Central Government may at any time cancel a notice served under sub-rule (4) in respect of a contract, and thereupon the said sub-rule shall, unless and until a further notice is served there under in respect of that contract, cease to operate in relation to the contract as regards any rights exercisable, or liabilities

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<sup>1</sup> Inserted by D C Dept notification No 209-OR/39 dated the 6th Oct 1939

<sup>2</sup> Substituted by D C Dept notification 261-OR/39 dated 14th November 1939, for the words and figures "section 18 of the Ordinance"



incurred, on or after the date on which the cancellation takes effect.

(6) If any order made under sub-rule (1) is contravened, the pilot of the aircraft and the owner or other person having the management thereof shall each be deemed to have contravened such order and shall be punishable with imprisonment for a term which may extend to three years <sup>1</sup>[or with fine or with both]

74. (1) Any person authorised in this behalf by the Central Government may, if it appears to that person to be necessary in the interests of the defence of British India so to do, order, with respect to any particular aircraft at any place in British India, that the aircraft shall not leave the place until permitted to do so by such authority or person as may be prescribed in the order.

(2) Subject to the provisions of sub-rule (3), if any aircraft leaves or attempts to leave any place in contravention of any such order as aforesaid, the pilot of the aircraft shall be punishable with imprisonment for a term which may extend to three years <sup>1</sup>[or with fine or with both],

(3) Any order made under this rule shall cease to have effect ninety-six hours after the time at which it is made, unless in the meantime it has been confirmed by the Central Government.

75 (1) The Central Government may, by order, make provision as to the places in British India in or to which seaplanes may be or go, and generally for regulating the movements, navigation, pilotage, anchorage, mooring, berthing and lighting of seaplanes on the surface of the water.

(2) For the purposes of this rule seaplanes taking off from, or alighting on the water shall be deemed to be on the surface of the water while they are in contact therewith.

(3) If in the case of any seaplane an order made under the provisions of sub-rule (1) is contravened, the pilot of the seaplane shall be punishable with imprisonment for a term which may extend to five years <sup>1</sup>[or with fine or with both]

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1. Substituted by D. C. Dept notification No 701-OR/41, dated the 15th February 1941, for the words "and shall also be liable to fine."

## PART XII.

## ESSENTIAL SUPPLIES AND WORK.

75 A. (1) If in the opinion of the Central Government or the Requisitioning Provincial Government it is necessary or expedient so to do for securing the defence of British India, the public safety, the maintenance of public order or the efficient prosecution of the war, or for maintaining supplies and services essential to the life of the community, that Government may by order in writing requisition any property, moveable or immoveable, and may make such further orders as appear to that Government to be necessary or expedient in connection with the requisitioning.

Provided that no property used for the purpose of religious whorship and no such property as is referred to in rule 66 or in rule 72 shall be requisitioned under this rule.

(2) Where the Central Government or the Provincial Government has requisitioned any property under sub-rule (1), that Government may use or deal with the property in such manner as may appear to it to be expedient, and may acquire it by serving on the owner thereof, or where the owner is not readily traceable or the ownership is in dispute, by publishing in the official gazette, a notice stating that the Central or Provincial Government, as the case may be, has decided to acquire it in pursuance of this rule.

(3) Where a notice of acquisition is served on the owner of the property or published in the official gazette under sub-rule (2), then at the beginning of the day on which the notice is so served or published, the property shall vest in Government free from any mortgage, pledge, lien or other similar encumbrance and the period of the requisition thereof shall end.

(4) Whenever in pursuance of sub-rule (1) or sub-rule (2) the Central Government or the Provincial Government requisitions or acquires any moveable property, the owner thereof shall be paid such compensation as that Government may determine:

<sup>2</sup>[Provided that where immediately before the requisition, the

1. Inserted by D. C. Dept notification No. 1336-OR/42, dated the 28th April 1942.

2. Inserted by D. Dept. notification No. 1636-Comp/12, dated the 15th August 1942.

property was by virtue of a hire purchase agreement in the possession of a person other than the owner, the amount determined by Government as the total compensation payable in respect of the requisition or acquisition shall be apportioned between that person and the owner in such manner as they may agree upon, and in default of agreement in such manner as an arbitrator appointed by the Government in this behalf may decide to be just.]

(5) The Central Government or the Provincial Government may, with a view to requisitioning any property under sub-rule (1) or determining the compensation payable under sub-rule (4) by order—

(a) require any person to furnish to such authority as may be specified in the order such information in his possession relating to the property as may be so specified.

(b) Direct that the owner, occupier or person in possession of the property shall not, without the permission of Government dispose of it or *where the property is a building, structurally alter it* or where the property is movable remove it from premises in which it is kept, till the expiry of such period as may be specified in the order

(5a)<sup>2</sup> “Without prejudice to any powers otherwise conferred by these Rules, any person authorised in this behalf by the Central Government or the Provincial Government may enter any premises and inspect such premises and any property therein or thereon for the purpose of determining whether, and, if so, in what manner, an order under this rule should be made in relation to such premises or property, or with a view to securing compliance with any order made under the rule.”

(6) Any orders made, and any action taken under or in relation to the rules 76, 79 or 83 before the 16th May, 1942, shall be deemed to have been made or taken under or in relation to this rule and to be as valid as if this rule had been then in force.

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1 Inserted by D Dept notification No 1338-OR/42, dated the 27th June 1942

2 Inserted by D. C. Dept notification No. 1477-OR/42 dated the 1st August 1942.

(7) If any person contravenes *any order made under this<sup>1</sup> rule* he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

*Notes*—(1) This rule is not applicable at all to the requisition or acquisition of an undertaking as a going concern such as an electric supply company, as it cannot be treated as nothing but a collection of items of movable and immovable property. A. I. R. 1948 Lah. 41 (F. B.)

\*(2) Vide Department of Supply notification No. 740 dated the 1st August 1942 the Central Government in exercise of the powers conferred by sub-section (4) of section 2 of the Defence of India Act, 1939, (XXXV of 1939) was pleased to direct that the powers conferred on it by sub-rule (1) and (5) of rule 75 A of the Defence of India Rules in respect of any article and out put of Mills pertaining to Cotton textiles shall be exercisable also by the Assistant Director General. Cotton Textiles, Bombay,

76<sup>2</sup> (Powers relating to buildings and premises),

76 A<sup>3</sup> The Central Government or the Provincial Government<sup>4</sup> Powers relating to may by order in writing require the storage accommodation owner, or the person having management of any warehouse or cold storage depot to place at the disposal of Government, the whole or any part of the space or accommodation available in such warehouse or cold storage depot and to employ such space or accommodation for the storage of any articles or things specified in the order and such an order may require the said owner or person to afford such facilities, and maintain such services, in respect of the storage of such articles or things, as may be specified.

(2) Whenever in pursuance of an order made under sub-rule (1) any space or accommodation in a warehouse or cold storage depot is placed at the disposal of the Central Government or, as the case may be, of the Provincial Government<sup>4</sup> and the circumstances are

1 Substituted by D C Dept notification No 1500-OR/42, dated the 18th July 1942, for the words "The provisions of this rule"

2 Omitted by D C Dept notification No 1336-OR/42, dated the 25th April, 1942

3 Inserted by D C Dept notification No 294-OR/39 dated the 8th Dec, 1939

4 Inserted by D C Dept notification No 893-SM/42 dated the 6th September 1941

\*Inserted D C Dept. Notification No. 5 D. C. (58)/44 dated the 5th Feb. 1944

not such as to render the provisions of section 19 of the Defence of India, Act, 1939, applicable, the owner of such warehouse or cold storage depot shall be paid therefor at such rates <sup>1</sup>[as that Government may by order made in this behalf determine

(3) If any person contravenes any order made in pursuance of this rule he shall be punishable with imprisonment for a term which may extend to six months <sup>2</sup>[or with fine or with both]

<sup>3</sup>[76B. (1) In this rule, "building" includes a compound wall,

Control of building operations. a concrete road inside private premises and any other structure in which stone, lime, sand, brick, cement, steel, or timber is used]

<sup>4</sup>[(2)] The Central Government if it is necessary so for the purpose of maintaining supplies and services essential to the life of the community may by order direct that, within such area as may be specified in the order no building, or no building of such class as may be so specified, shall be erected, re-erected, or altered except under the authority of a written permit granted by or on behalf of that Government

<sup>4</sup>[(3) Every authority granting permission in pursuance of an order made under sub-rule (2) shall have power to impose on the permit holder such conditions as that authority thinks fit for conserving essential building materials, and to revoke, or modify the terms of any permit granted by it]

<sup>4</sup>[(4) If any person contravenes any order made under <sup>4</sup>[sub-rule rule (2) or fails to comply with any condition imposed under sub-rule (3) he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both]

77 Nothing contained in any law for the time being in force Power to exempt buildings from the operation of building law. or in any rule made under any such law, to regulate the erection, re-erection, alteration or maintenance of buildings shall apply to any building the use of which by or on behalf of Government is

1 Substituted by D C Dept notification No 893-SM/41, dated the 8th September 1941 for the words "as the Central Government"

2 Substituted by D C Dept notification No 701-OR/41 dated the 15th Feb 1941 for the words "and shall also be liable to fine"

3 Inserted by D C. Dept notification No 142C-OR/42, dated the 20th June 1942

4 Inserted by Defence Dept notification No 1620-OR/42, dated the 26th December 1942 and sub-rules (1) and (2) renumbered as sub-rules (2) and (4).

certified by the Central Government <sup>1</sup>[or the Provincial Government] to be necessary or expedient for the successful prosecution of the war and the defence of British India <sup>2</sup>[or to any works executed, whether in relation to building or otherwise, by any person with the sanction of the Central or the Provincial Government, for the purpose of providing air raid shelter or rendering any building less vulnerable to hostile attack.]

<sup>3</sup>[77A (1) In this rule "the appropriate Government means Restrictions on in relation to cantonment authorities and certain powers of port authorities in major ports, the Central local authorities. Government, and in relation to other local authorities, the Central Government or the Provincial Government.

(2) No local authority shall, except with the permission of appropriate Government, exercise its powers of entry and inspection, or its powers of calling for information, in respect of any buildings or other premises which the Central Government may, with a view to prevent leakage of information valuable to the enemy certify in this behalf; and the appropriate Government may, at the time of granting the permission or subsequently, impose such conditions as it thinks fit on the manner in which and the extent to which, the powers shall be exercisable by or on behalf of the local authority in respect of those buildings or other premises.]

<sup>4</sup>(3) No local authority shall, except with the permission of the appropriate Government, exercise its powers of demolition in respect of any building which may be certified by the Central Government as being used for purposes essential to the defence of British India, the efficient prosecution of the war or the maintenance of essential services or supplies, and the appropriate Govern-

1. Inserted by D C Dept notification No 393-SM/41 dated the 6th September 1941.

2. Inserted D C Dept notification No 1186 OR/42, dated the 10th Jan 1942.

3. Inserted by D.C Dept notification No 1140/42-SM, dated the 9th. June 1942

4 Substituted by D.C. Dept. notification No.1648-OR/42, dated 5th Dec 1942

ment may, at the time of granting the permission or subsequently, impose such condition as it thinks fit on the manner in which, and the extent to which the powers shall be exercisable by or on behalf of the local authority in respect of the building

78 (1) For the purposes of this rule <sup>1</sup>[and of rule 78A], the Powers to do work doing of work on land shall include demolition on land.

tion or rendering useless of anything placed in, on or over the land, the removal from the land of anything so demolished or rendered useless <sup>2</sup>\* \*\* and the maintenance of any work or thing in, on or over the land.

(2) Any member of His Majesty's forces acting in the course of his duty as such, and any other person authorised by the Central Government or the Provincial Government, in that behalf, may, if in the opinion of such member or person it is necessary or expedient so to do for securing the defence of British India, the public safety, the maintenance of public order or the efficient prosecution of war, or for maintaining supplies and services essential to the life of the community, do any work on any land, or place anything in, on or over any land

(3) If in the opinion of the Central Government or the Provincial Government <sup>3</sup>it is necessary or expedient so to do for securing the defence of British India, the public safety, the maintenance of public order, or the efficient prosecution of war, or for maintaining supplies and services essential to the life of the community *that Government may*<sup>4</sup> by order provide for prohibiting or restricting the doing on any particular land of any such work as may be specified in the order.

(4) No person shall, except with permission granted by or on behalf of the Central Government or the Provincial Government *as the case may be*<sup>5</sup>, remove, alter or tamper with any work done,

1. Inserted by D. C. Dept. notification No. 872-SM/41, dated the 2nd January 1942

2. Omitted by D. C. Dept. notification No. 1855-OR/42 dated the 6th March 1943

3. Substituted by D. C. Notification No. 872-SM/42, dated the

4. Substituted by *ibid* for the words "the Central Government may."

Sept., 1942 for the words "Provincial Government

5. Inserted by D. C. Dept. No. 699 OR/41 dated 15th March,

or thing placed, in, on or over any land in pursuance of this rule.

“(4A)”<sup>1</sup> Anything removed from any land in pursuance of this rule may be sorted, or disposed of, in such manner as the Central Government or the Provincial Government, as the case may be, may by general or special order direct

(5) If any person contravenes any of the provisions of this rule, or any order made thereunder<sup>2</sup> he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.<sup>3</sup>

*Notes*.—The powers under this rule have also been made exercisable by all the collectors within the limits of their respective jurisdiction by Defence Co-ordination Department Notification No 824—OR/41, dated 4th October 1941.

“478A. (1) Any officer of Government authorised in this behalf by general or special order of the Powers to require certain persons to do work. Central Government or the Provincial Government<sup>4</sup> may, within such area as may be specified in the order, require any male person in that area to assist in the doing of work on land for such period and in such manner as the officer may direct, being work the doing of which is in the opinion of the officer necessary to meet an actual or apprehended attack, or to repair or reduce the damage resulting therefrom or to facilitate offensive or defensive operations in the area.

(2) Any person doing work in compliance with any direction under sub-rule (1) shall be paid such remuneration for doing the work as the officer giving the direction may determine

1. Substituted by D. C. Dept, notification No 1381 OR/42, dated the 18th July 1942 for sub-rule (4a)

2. Inserted by D C Dept notification No 1500-OR/42, dated the 18th July 1942

3. Substituted by D C Dept notification 701-SM/41 dated the 15th Feb 1941 for the words “and shall also be liable to fine”

4. Inserted by D C Dept notification No 872-SM/41, dated the 2nd January 1941

5. Substituted by D Dept notification No. 872-SM/42, dated the 26th September, 1942, for the words “Provincial Government.”



(3) If any person fails to comply with any lawful direction given to him under sub-rule (1), he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

1478B. (1) The Central Government or the Provincial Government may by general or special order provide—  
Salvage from premises damaged by war operations.

<sup>2</sup>(a) “for the clearing of any premises which, in consequence of war operations are substantially damaged or are contaminated by any lethal gas or noxious substance” ;

(b) for the protection of any animals, articles or things left upon such premises as aforesaid ;

(c) for the removal, storage or disposal of any such animals, articles or things as aforesaid including the disinfection or destruction of articles or things which may be a source of danger to public health or safety.

*Explanation.*—In this sub-rule, “premises” includes buildings, lands, harbours, docks, piers, wharves and other such places, and articles “includes” vehicles and vessels.

(2) Any \*animals articles, or things removed from any premises in accordance with an order under sub-rule (1) shall, subject to any provisions of the order authorising destruction or disposal, be held on behalf of the person for the time being entitled thereto until they are delivered to him.

(3) Where any animals, articles or things are disposed of, whether by sale at the premises or otherwise, in accordance with an order under sub-rule (1) the net proceeds, if any, of such sale or disposal shall be held on behalf of the person for the time being entitled thereto until they are delivered to him.

(4) If any person contravenes the provisions of any order made under sub-rule (1) he shall be punishable with imprisonment

1 Added by D. C. Dept. notification No 1655-OR/42, dated the 6th March 1943

2 Substituted by D C Dept notification No 5 D C.-1655-OR/42, dated the 4th September 1943.

\*The word animals was added by D Dept notification No 1655 OR/42 dated the 5th Feb 1944

for a term which may extend to six months or with fine or with both."

### 179. Requisitioning of land.

80. (1) Without prejudice to any other of these rules, *the Use of land for Central Government or the Provincial Government<sup>2</sup> may by order authorise, subject to any Majesty's forces. restrictions or conditions imposed by the order, the use of any specified land for naval, military or air force purposes, during such period as may be specified, and any such order may, so far as appears to that Government<sup>3</sup> to be necessary or expedient for the purposes of the order provide —*

(a) for entitling *any<sup>4</sup> person using any land in pursuance of the order to do such acts in relation to that land as may be specified ;*

(b) for prohibiting or restricting the exercise of rights of way over that land, and of other rights relating thereto which are enjoyed by any person, whether by virtue of an interest in land or otherwise.

(2) If any person contravenes *any order made under this rule<sup>5</sup> he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both<sup>6</sup>*

*Notes :—The Central Government in exercise of the powers conferred by sub-section (4) of section 2 of the Defence of India Act have vide Defence Co-ordination Notification No. 824—OR/41, dated 4th October 1940 made powers under this rule also*

1. Omitted by D C Dept. notification No 1336-OR/32 dated the 25th April, 1942.

2 Substituted by D. C Dept notification No, 898-SM/41 dated the 6th September, 1941, for the words "the Central Government may".

3 Substituted by *ibid* for the words "the Central Government"

4. Inserted by D. C Dept notification No 361-OR/40, dated the 4th March. 1941.

5. Substituted by D C Dept notification No. 1500-OR 42, dated the 18th July 1942, for the words "any of the provisions of this rule".

6 Substituted by D C. Dept no ification No 701-OR/41, dated the 15th February 1941 for the words - " and shall also be liable to fine "

exercisable by all collectors within the limits of their respective jurisdictions.

**1480A** (1) The Central Government, so far as appears to it to be necessary or expedient for the efficient prosecution of war or for maintaining supplies and services essential to the life of the community may by order provide that lighting arrangements in any factory or class of factories shall be in accordance with such standard as may be specified in the order

Powers to provide lighting arrangements in factories.

(2) If any person contravenes any order under this rule he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both

**1480B.** “(1) The Central Government or the Provincial Government, so far as it appears to it to be necessary or expedient for regulating or increasing the supply of articles which can be used in connection with the conduct of War or for maintaining supplies and services essential to the life of the Community, may by order provide—

(a) for prohibiting, restricting, or otherwise controlling the cultivation of specified crops.,

(b) for bringing under cultivation any waste or arable land, whether appurtenant to a building or not, and for the growing therein of specified crops ;

(c) for any incidental and supplementary matters for which Central Government or the Provincial Government thinks it expedient for the purposes of the order to provide including in particular the entering and inspection of land or premises to which the order relates with a view to securing compliance with the order, the seizure of any crops or other produce of land cultivated or grown in contravention of the order, and the grant or issue of permits and other documents for the purposes of the order, and an order under this rule may be made so as to apply either to persons

1 Inserted by D C Dept notification No, 5-DC(32)/43, dated the 4th September 1941

2. Inserted by D. C. Dept notification No. 1568-OR/42, dated 15th January 1944.

or lands, and so as to have effect either generally or in any particular area ;

Provided that no order shall be made by a Provincial Government under clause (a) except with the previous approval of the Central Government.

(2) If in the opinion of the Provincial Government the person in possession or effective control of any land to which an order made under clause (b) of sub-rule (1) applies has failed to comply with the order that Government may, without prejudice to any other action that may be taken against that person (hereinafter referred to as the defaulter) in respect of the Contravention, by order direct that the land shall be placed in the exclusive possession of such person and for such period as may be specified in the order, and during the period of continuance of the last mentioned order the person specified therein shall have all the rights of the defaulter to manage the land and realise the profits arising therefrom and shall only be liable to pay on behalf of the defaulter the Government revenue, all other charges of a public nature and the rent, if any accruing due in respect of the land during that period.

(3) If any person contravenes any order made under this rule otherwise than under clause (b) of sub-rule (1), he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both, and in addition any court trying such contravention may direct that any crops or other produce of land cultivated or grown in contravention of the order shall be forfeited to His Majesty

81 (1) In this rule any reference to article shall be construed General Control of as including a reference to electrical energy, and<sup>1</sup> Industry etc the expression "undertaking" means any undertaking by way of any trade or business and includes the occupation of handling, loading or unloading goods in the course of transport,<sup>2</sup>

1 Inserted by D. C. Dept notification No 894-OR/41, dated the 5th April 1941

2 Inserted by D. C. Dept notification No 531-OR/40 dated the 19th September 1941

(2) The Central Government or the Provincial Government,<sup>1</sup> so far as appears to it to be necessary or expedient for securing the defence of British India or the efficient prosecution of war, or for maintaining supplies and services essential to the life of the community, may by order provide—

(a) for regulating or prohibiting the production, treatment, keeping, storage, movement, transport, distribution, disposal, acquisition, use or consumption of articles or things of any description whatsoever *and in particular for prohibiting the withholding from sale, either generally or to specified persons or classes of persons, of articles or things kept for sale, and for requiring articles or things kept for sale to be sold either generally or to specified persons or classes of persons or in specified circumstances,*<sup>2</sup>

(aa)<sup>3</sup> for collecting any information or statistics with a view to the rationing of any article essential to the life of the community.

(ab)<sup>4</sup> for controlling the rates at which any vessel registered in British India may be hired and the rates at which persons or goods may be carried in or on any such vessel,

(b) for controlling the price or rate<sup>5</sup> at which articles or things of any description whatsoever may be sold or hired<sup>6</sup> and for relaxing any maximum or minimum limits otherwise imposed on such prices or rates<sup>7</sup>

(ba)<sup>8</sup>

1. Inserted by D. C. Dept notification No 890-SM/41 dated the 29th November, 1941,

2. Inserted by D C Depot notification No 366-OR/40 dated the 8th June 1940

3. Inserted by D C Dept. notification No 5 D.C (6)/43 dated the 7th April, 1943

4. Inserted by D C. Dept notification No 570 OR/40 dated the 21st September 1940

5. Inserted by D C. Dept notification No. 622-OR/41 dated the 21st January 1941

6. Inserted by D C Dept notification No 787-OR/41 dated the 11th April 1942

7. Inserted by D C Depot notification No. 822-OR/41 dated the 21st January, 1941

8. Omitted by D Dept notification No. 5-DC (11)/43 dated the 27th February 1943.

<sup>1</sup>(bb) for regulating the letting and sub-letting of *any accommodation or class of accommodation whether residential or non-residential*<sup>2</sup> whether furnished or unfurnished and whether with or without board, and in particular—

(i) for controlling the rents for such accommodation *either generally or when let to specified persons or classes of persons or in specified circumstances*,<sup>3</sup>

(ii) for preventing the unreasonable eviction of tenants or sub tenants from such accommodation, and

(iii) for requiring such accommodation to be let either generally, or to specified persons or classes of persons, or in specified circumstances ;

<sup>4</sup>(bc) for requiring any employers or class of employers to supply to all or any class of their employees and to all or any class of dependants of such employees *such essential articles*<sup>5</sup> in such quantities and at such price as may be specified in the order and to provide such accommodation and other facilities for taking meals at or near the place of employment as may be so specified

(c)<sup>6</sup> for regulating the carrying on of any undertaking engaged in, or capable of doing, work appearing to the Central Government or the Provincial Government<sup>7</sup> essential to any of the above mentioned purposes, and, in particular—

(e) for requiring work to be done by an undertaking ;

1 Substituted by D. C Dept notification No 960-OR/41 dated the 2nd August, 1941, for clause (bb) of sub-rule (2) which was inserted by Labour Department notification No B-52, dated the 28th September 1939, and amended by D C. Dept notification No 793-OR/41. dated the 26th April, 1941

2 Substituted by D Dept notification No 5 DC (1)/43 dated 27th February, 1943 for the words, "any area of residential accommodation"

3. Inserted by D Dept notification No 1527-OR/42 dated the 31st July, 1942

4 Added by D Dept. notification No 5 D.C (17) 43 dated the 27th March, 1943

5 Substituted by D C Dept notification No. 5 DC -(17)/43 dated 22nd January, 1944 for the words, "food or foodstuffs"

6. Substituted by D C Dept notification No 734-OR/41, dated the 8th March, 1941 for the original clause (e) of sub- rule (2).

7 Inserted by D C Dept. notification No. 899—SM/41, the 8th March 1941.

(ii) for determining the order of priority in which, and the period or periods within which works shall be done by an undertaking,

(iii) for controlling or fixing the charges which may be made by the undertakers in respect of the doing of any work by them\*\*1

(iv) for requiring, regulating or prohibiting the engagement in the undertaking of any *employee*<sup>2</sup> or any class or classes of *employees*<sup>2</sup>

<sup>1</sup>(v) for requiring the undertaking to provide adequate safeguards against the sabotage,

(d) for requiring persons carrying on any undertaking to keep such books, accounts and records relating to the undertaking, *and to employ such accounting and auditing staff*,<sup>3</sup> as may be specified in the order.

(e) for requiring persons carrying on, or employed in connection with, any undertaking to produce to such authority as may be specified in the order any books, accounts or other documents relating to the undertaking, and for requiring such persons to furnish to such authority as may be specified in the order, such estimate, return or other information relating to the undertaking as may be specified in the order or demanded thereunder;

<sup>4</sup>(ee)

(f) for any incidental and supplementary matters for which the Central Government or the *Provincial Government*<sup>5</sup> thinks it expedient for the purposes of the order to provide, including, in particular the entering, *search*,<sup>4</sup> and inspection of the premises to which the order relates with a view to securing compliance with the order, *the seizure, subject to the provision of sub-rule (3-c), by a person authorised to make such search of any articles in respect of which such person has reason to believe that a contravention of the order has*

1 The word, " and " omitted by D C Dept notification No 927-OR/41, date the 20th September, 1941

2 Substituted by *abid* for the words 'workman' and 'workmen'

3 Inserted by D C Dept notification No 734-OR/41 dated the 8th March 1941

4 Omitted by D. Dept notification No 5 N C (31) 43 dated 23rd June 1943

5 Inserted by D. C Dept, notification No 899 SM/41 dated the 29th November, 1941.

been, is being or is about to be committed<sup>1</sup> "the grant or issue of licenses, permits, certificates and other documents, and the charging of fees thereof<sup>2</sup> and an order under this rule... ..<sup>3</sup> may be made so as to apply either to persons, or undertakings, and either to the whole or to any part of any undertakings and so as to have effect either generally or in any particular area.

<sup>4</sup>"Provided that—

(i) no order made, whether before, on or after the 18th May, 1943, in exercise of the powers conferred by clause (a) of this sub-rule on a Provincial Government shall have effect so as to prohibit or restrict the export from any place in the province to any place outside India of articles or things ,

(ii)<sup>5</sup>

(iii)<sup>5</sup>

<sup>6</sup>(2A) " Any orders made, and any action taken, under or in relation to clause (ba) of sub-rule (2) before the 15th March, 1943 shall be deemed to have taken under or in relation to clause (bb) of that sub-rule as amended with effect from that date"

<sup>7</sup>(3) "If it appears to the Central Government or the Provincial Government<sup>8</sup> that in the interests of the defence of British India or

1 Omitted by D C Dept, notification No S D C -(34)/43, dated the 23rd June 1943

2 Insert by D C Dept notification No 1841-OR/42 dated the 21st-November 1942

3 The Words—"may prohibit the doing of anything regulated by the orders except under, and in accordance with the condition of, a licence granted by such authority as may be specified in the order, and" omitted by bid

4 Originally inserted by D Dept notification No 5-D C (19)/43 dated the 1st May 1943 and substituted by D Dept notification No 5-DC(38)/43, dated 18th May 1943

5 Omitted by D. Dept notification No 5-DC(28)/43, dated the 16th Aug 1943

6 Added by D Dept notification No 5-DC(11)/40, dated 27th Feb 1943

7 Substituted by D C Dept notification No 709-OR/41, dated the 14th June 1941

8 Inserted by D C. Dept. notification No. 839-SM/41, dated the 29th November 1941.



the efficient prosecution of the war, or for maintaining supplies and services essential to the life of the community, it is necessary to exercise control over the whole or any part of an existing undertaking <sup>1</sup>[that Government may] by order authorise any person (hereinafter referred to as an authorised controller,) to exercise, with respect to the undertaking or any part thereof specified in the order, such functions of control as may be provided by the order, and so long as an order made under this sub-rule is in force with respect to any undertaking or part of an undertaking—

(a) the authorised controller shall exercise his functions in accordance with any instructions given to him by the Central Government <sup>2</sup>[for the Provincial Government], so, however, that he shall not have power to give any directions inconsistent with the provisions of any Act or other instrument determining the functions of the undertakers except in so far as may be specifically provided by the order, and

(b) the undertaking or part shall be carried on in accordance with any directions given by the authorised controller in accordance with the provisions of the order, any person having any functions of management in relation to the undertaking or part shall comply with any such directions ]

<sup>3</sup>[(8A) The Central Government, so far as it appears to it to be necessary or expedient for securing the defence of British India or the efficient prosecution of the war or for maintaining supplies and services essential to the life of the community, may direct the employment of persons subject to the Indian Army Act, 1811, or the Indian Air Force Act, 1932, in any undertaking or part thereof—

(i) which is being carried on by the Central or Provincial Government, or

(ii) which, in the opinion of the Central Government is en-

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1 Substituted by D C Dept notification No 709 OR/41, dated the 14th June 1941, for the words " the Central Government may "

2, Inserted by D C Dept notification No 899-SM/41 dated the 29th Nov 1941

3 Inserted by D C Dept notification No. 531-OR/40 dated the 21st. Aug. 1942.

gaged in any trade or business essential to the life of the community, or

(iii) with respect to which an order made under sub-rule (3) is in force ;

and thereupon it shall be the duty of every person so subject to obey any command given by any superior officer in relation to such employment and every such command shall be deemed to be a lawful command within the meaning and for the purpose of the Indian Army Act, 1911, or the Indian Air Force Act, 1932, as the case may be.

(3B). A direction under sub-rule (3A) may be made with or without the consent of the person carrying on the undertaking or part thereof to which the direction relates but if made without his consent shall be communicated to such person who shall thereon be deemed to have contravened an order made under this rule if he obstructs or fails to facilitate the employment of persons subject to the Indian Army Act, 1911, or the Indian Air Force Act, 1932, in pursuance of the direction.

1“(3-C) Any articles seized under the authority of any order made under clause (f) of sub-rule (2) shall be conveyed without delay before a Magistrate who may give such directions as to their temporary custody as he thinks fit, so however, that where no prosecution is instituted for a contravention of the order in respect of the articles seized within a period in his opinion reasonable, the Magistrate shall direct their return to the persons from whom they were seized, and subject to the forgoing provisions of this sub-rule, the provisions of the Code of Criminal Procedure, 1898, shall so far as they may be applicable, apply to any search or seizure under the authority of any such order as they apply to seizure under Chapter VII of that Code”

(4) If any person Contravenes *any order made under this rule*<sup>2</sup> he shall be punishable with imprisonment for a term which may

1. Inserted by D C- Dept notification No S DC (34)/43 dated the 23rd June- 1943

2. Substituted by D C Dept Notification No 1500-OR/42, dated the 18th July, 1942, for the words, " any of the provisions of this rule."

extend to three years *or with fine or with both*<sup>1</sup> "and if the order so provides, any court trying such contravention may direct that any property in respect of which the court is satisfied that the order has been contravened shall be forfeited to His Majesty"<sup>2</sup>

**Applicability**—This rule is contemplated for dealing with the control of an "undertaking." So an order taking control of the supply of electric energy is deliberately contemplated by this rule, which is devised and enacted for the very purpose of Controlling an electrical undertaking in danger of being sabotaged. But under this rule it is impossible to acquire an undertaking A. I. R. 1943 Lah 41 (F B)

**Retrospective effect** to amendments made on 18th July, 1942 cannot be given and the contravention of an order made under this rule prior to that date is not punishable. A. I. R. 1943 Mad 255 A. I. R. 1943, Patna 315.

**Construction**—The rule gives very wide powers and, therefore being a penal provision must be construed generally A.I.R. 1943 Patna 315 So any order passed by the District Magistrate under this rule cannot bind the person concerned unless it is pulished in accordance with rule 119, Defence of India Rules. A.I.R. 1944 Nag 40 So also where the accused sold kerosene oil at the controlled rate plus transportation charges and it is not shown that the amount charged on account of costs of transportation was excessive it cannot be said that the prosecution succeeded in proving that any provisions of this rule or any order made thereunder has been contravened A I R 1943 Cal 642 Similarly before a trader who increases the price of cloth can be prosecuted it must be proved that there is an order fixing the price of cloth in that district A I R. 1940 Patna 373 Where the quality of the rice sold was not proved to be the same as the quality of the rice of which the price was fixed or proved the conviction of the accused could not be sustained A I R. 1940 Bombay 254. Also see A I R 1943 All 15 But where before the amendment of R:81(4) &

1. Substituted by D C Dept notification No. 701-OR/41 dated the 15th February 1941 for the words, "and shall also be liable to fine"

2. Inserted by D Dept notification No. 5-D C. (9)/43 dated the 5th February 1943.

R. 5 the accused contravened the provisions of the Mica Control Order, 1940 made under rule 81(2) under which the order was made the accused were held punishable under R 81 (4) as it stood before amendment of 1942. A.I.R. 1944 Patna 1

Similarly a person holding a license under the Food Grain Control Order, dated the 21st May, 1942, issued under the Defence of India Rules, who sold food grains without showing in the receipts or duplicates maintained by him the names, address and the license number of the purchaser as required by condition No 6 of the license form he contravened the provisions of clause (6) of the order & was held guilty of the offence punishable under R 81 (4) of the Defence of India Rules. A I.R. 1944 Mad. 41

*Coke*, whether hard or soft is not included in steam coal. It is a substance which is produced by the treatment of coal in such a manner as to remove there-from certain gasses. A. I. R. 1943 Patna 315.

*Contravention* —In Rule 81 (4) previous to its amendment by D C. Dept notification No 1500-OR/42, dated 18th July 1942, the contravention of "any of the provisions of this rule," was made punishable. The expression, 'Contravenes any of the provisions of this rule,' was unfortunate. It was difficult to apprehend how any person, except possibly the Central or Provincial Government, could contravene any of these provisions. What was evidently meant was that a person should be punishable for contravening the provisions of any order passed under this rule, not for contravening any provisions of this rule itself, which provisions in themselves did not fix any prices. A I R 1943 Patna, 315. According to the observations of His Lordship in the ruling cited above the words were substituted for the expression, "any order made under this rule" For orders issued under this rule see Index

*Notification* —The powers under sub-rule (3-A) of this rule are also made exercisable by any Provincial Government or Chief Commissioner by Defence Department notification No. 531-OR/1/40, dated 21st August 1942

181 A (1) It in the opinion of the Central Government it is

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<sup>1</sup> Substituted by D C Dept notification No. 1408-OR/42 dated the 23rd May, 1942 for the words beginning with the words 'make provision for' and ending with the words, "purposes of order."

Avoidance of strike and lock out. necessary or expedient so to do for securing the defence of British India, the public safety, the maintenance of public order or the efficient prosecution of War or for maintaining supplies and services essential to the life of the community, the Central Government may by general or special order, applying generally or to any specified area<sup>1</sup> make provisions<sup>2</sup>—

(a) For prohibiting, subject to the provisions of the order, a strike or lock-out in connection with any trade dispute ,

(b) For requiring employers, workmen or both to observe for such period as may be specified in the order such terms and conditions of employment as may be determined in accordance with the order ,

(c) for referring any trade dispute for conciliation or adjudication in the manner provided in the order ,

(d) for enforcing for such period as may be specified in the order *all or any of*<sup>3</sup> the decisions of the authority to which a trade dispute has been referred for adjudication ,

(e) for any incidental and supplementary matters which appear to the Central Government necessary or expedient for the purposes of the order ;

Provided that no order made under clause (b)—

(i) Shall require an employer to observe terms and conditions of the employment less favourable to the workmen than those *which were applicable to them*<sup>3</sup> at any time within three months preceding the date of the order

(ii) Where a trade dispute is referred for adjudication under clause (c) shall be enforced after the decision of the adjudicating authority is announced by, or with the consent of, the Central Government

(2) Unless any such order makes express provision to the

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1. Inserted by D C Dept notification No. 1500-OR/42 dated the 18th July 1942

2 Substituted by D Dept. notification No 5 DC (8)/43 dated the 6th Feb 1943

3 Inserted by D- C Dept. notification No. 5 D C (8)/43 dated 11th Nov 1943.

contrary, nothing therein shall affect the power to refer any trade dispute or matters connected therewith for report or settlement under the Trade Disputes Act, 1929.

(3) Nothing in the Arbitration Act 1940 shall apply to any proceedings under any such order.

"(3 A). An order made under sub-rule (1) referring a Trade Dispute for adjudication shall as far as may be practicable the matters upon which adjudication is necessary or desirable :

Provided that—

(i) The Central Government may of its own motion, or at the instance of any adjudicating authority, add to, amend or vary the matters so specified ;

(ii) the Central Government may, with a view to specify the said matters direct the adjudicating authority to make a preliminary inquiry into the nature of the dispute, and postpone specification for such time as may be reasonably required."

(4) If any person contravenes *any order made under this rule* he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

"(5) In this rule the expressions "employer," "lockout," "strike", "trade dispute", and "workman " shall have the meanings respectively assigned to them in section 2 of the Trade Disputes Act 1929 (VII of 1929), subject to the modification that the references to "trade or industry" in the definition of "strike" and "workman" in the said section shall be construed as including the performance of its functions by a local authority."

*Notification* —In exercise of the powers conferred by sub-section (4) of section 2 of the Defence of India Act, 1939 (XXXV of 1939), the Central Government is pleased to direct that the powers conferred and the duties imposed on the Central Government by sub-rule (3 A) of rule 81-A of the Defence of India Rules, shall be

1. Inserted by D. Dept notification No 5 DC (8)-43 dated 11th December. 1943.

2. Substituted by D. C. Dept. notification No. 1500-OR/42, dated the 18th July, 1942, for the words, " any of the provisions of this rule."

3 Substituted by D Dept. notification No 5 DC. (8)/43 dated the 5th May, 1942.

exercised or discharged, as the case may be, also by any Provincial Government, or by the Chief Commissioners of Delhi, Ajmer-Marwara, Coorg and Panth Piploda (Department of Labour, Notification No. L. R. 16 dated the 11th December, 1943)

*Notes.*—This rule adopts the definitions of the words mentioned in sub-section (5) of the Trade Disputes Act, 1929, (Act VII of 1929). The definitions of the expressions, “employee”, “lock out”, “strike”, “trade dispute” and “workman” as given in that Act are—

“Employer” in the case of any industry, business or undertaking carried on by any department of the Government, means the authority prescribed in this behalf or, where no authority is prescribed, the head of the department

“Lock-out” means the closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him, where such closing, suspension or refusal occurs in consequence of a dispute and is intended for the purpose of compelling those persons, or of aiding another employer in compelling persons employed by him to accept terms or conditions of or effecting employment;

“Strike” means a cessation of work by a body of persons employed in any trade or industry acting in combination, or a concerted refusal, or a refusal under a common understanding, of any number of persons who are or have been so employed to continue to work or to accept employment

“Trade dispute” means any dispute or difference between employers and workmen, or between workmen and workmen which is connected with the employment or non-employment on the terms of the employment or with the conditions of labour, of any person,

“Workman” means any person employed in any trade or industry to do any skilled or unskilled manual or clerical work for hire or reward, but does not include any person employed in the Naval, Military or Air service of the Crown or in the Royal Indian Marine Service.

<sup>1</sup> " 81 B If any person being a British subject domiciled in any part of India leaves any employment with any part of India leaves any employment in contravention of Regulation 58 AC of the Defence (General) Regulations, 1939 (being Regulations made by His Majesty in Council under the Emergency Powers (Defence) Acts 1939 and 1940), he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both."

<sup>2</sup> ["81-C. If any person being a British subject domiciled in any part of India leaves any employment in contravention of Regulation No 2 of 1942 made under the Persian Gulf States (Emergency) Order in Council, 1939, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both"]

<sup>3</sup>/81 D (1) In this rule—

Shops trading in essential articles (a) "scheduled article" means an article specified in the Schedule to this rule, and includes an article which the Provincial Government or the District Magistrate, being of opinion that the maintenance of the supply thereof is essential to the life of the community, declares by order in writing to be a scheduled article ;

[(aa) "essential article" means an article which the Provincial Government or the District Magistrate, being of opinion that the maintenance of the supply thereof is essential to the life of the community declares by order in writing to be an essential article ,]

(b) "shop" means any premises wherein any retail trade is carried on in scheduled articles, whether or not in addition to

1 Inserted by D C notification No 1258-OR/42 dated the 7th March, 1942

2 Inserted by D C Dept notification No 1470-OR/42 dated 20th June, 1942

3 Inserted by D Dept notification No 1533 SM/42, dated the 7th August 1942

4 Inserted by D Dept No 1532-SM/42, dated the 22nd August 1942.



retail trade in other articles and whether for the benefit of the public generally or of a class or classes of persons only,

(c) "restaurant" means any premises wherein is carried on, whether or not in addition to other forms of business, the business of supplying meals or refreshments to the public or a class of the public, for consumption on the premises,

<sup>1</sup>[(cc) "wholesale establishment" means any premises wherein any wholesale trade is carried on in essential articles, whether or not in addition to wholesale trade in other articles, or wherein any essential articles are kept whether or not in addition to other articles, for wholesale trade,]

(d) "essential business" means <sup>1</sup>[in relation to a wholesale establishment, wholesale trade in essential articles], in relation to a shop, retail trade in scheduled articles, and in relation to a restaurant, the business of supplying meals or refreshments, for consumption on the premises,

(e) "proprietor" of a <sup>4</sup>[wholesale establishment, shop or restaurant] includes any person responsible for the management thereof.

(2) The District Magistrate, if he considers it necessary for the purpose of maintaining supplies essential to the life of the community, may by general or special order and subject to the provisions of any law for the time being in force relating to shop-hours require the proprietor of a <sup>2</sup>(wholesale establishment shop or restaurant] to keep open the <sup>2</sup>[wholesale establishment, shop or restaurant] for the conduct of the essential business thereof during such period or periods as may be specified in the order

(3) No proprietor of a <sup>4</sup>[wholesale establishment, shop or restaurant] shall close the <sup>2</sup>[wholesale establishment, shop or restaurant] on the occasion of a *hartal* or in contravention of any order under sub-rule (2), or suffer the same to be so closed.

(4) If a <sup>2</sup>[wholesale establishment, shop or restaurant] is closed in contravention of sub-rule (3), the District Magistrate or any person authorised by him by general or special order in this

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1. Inserted by *ibid* for the words "shop or restaurant"

2. Substituted by D. D notification No 1533-SM/42, dated the 22nd August 1942.

behalf may cause the <sup>1</sup>[wholesale establishment, shop or restaurant] to be opened and the essential business thereof to be carried on through such agency as he may think fit and at such prices as may be specified in the order, and may use or cause to be used all such force as may be necessary for the enforcement of this sub-rule.

(5) Where the essential business of a <sup>1</sup>[wholesale establishment, shop or restaurant] is carried on in pursuance of an order under sub-rule (4), all stock-in-trade relevant to the essential business thereof may be sold or disposed of by the agency through which this essential business is carried on, and there shall be paid to the proprietor of the <sup>1</sup>[wholesale establishment, shop or restaurant] a sum certified by the District Magistrate or by a person authorised by him in this behalf as representing the proceeds of the sale or disposal of such stock-in-trade less the amount of the cost of carrying on the essential business of the <sup>1</sup>[wholesale establishment, shop or restaurant] and the sum so certified shall be final and shall not be called in question in any court.

(6) Where the proprietor of a <sup>1</sup>[wholesale establishment, shop or restaurant] does not close the <sup>1</sup>[wholesale establishment, shop or restaurant] on the occasion of a *hartal* or in contravention of an order under sub-rule (2), but on such occasion or during the period or periods specified <sup>2</sup>in such order, as the case may be, refuses to carry on the essential business thereof except on terms in excess of the normal, the <sup>1</sup>[wholesale establishment, shop or restaurant] shall be deemed to be closed in contravention of sub-rule (3) for all the purposes of this rule

(7) The powers and functions of the District Magistrate under this rule shall, in a presidency-town, be exercisable by the Commissioner of Police.

(8) Any person who contravenes any of the provisions of this rule or any order made there under shall be punishable with imprisonment for a term which may extend to three years or with fine or with both

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<sup>1</sup> Substituted by D. C. Dept notification No. 1533-SM/42 dated the 22nd August 1942, for ti

## THE SCHEDULE

Grains, pulses and flour, and any food-stuffs made from any of them.

Sugar and gur.

Milk and milk products, including ghee.

Eggs.

Vegetable oils.

Vegetables and fruits, all sorts.

Meat, fish and poultry.

Spices.

Salt.

Kerosene oil.

Charcoal, steam coal and fire wood

Matches.

Medicines.

Household soap.

Fodder, bran, pollard and oilcakes.

16[81E. (1) In this rule, 'public servant includes a village Boycotting. chowkidar and any person engaged in any employment or class of employment to which the Essential Services (Maintenance) Ordinance, 1941, applies.

(2) No person shall—

(a) refuse to deal or do business with or to supply goods, or to let a house or land to, or to render any customary service to, any public servant or any person in whom a public servant is interested or refuse to do so on the terms on which such things would be done in the ordinary course,

(b) abstain from such professional or business relations as he would ordinarily maintain with such public servant or person,

(c) threaten such public servant or person with any such refusal or abstention as aforesaid

(3) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both

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1 Inserted by Defence Department notification No 1621-SM/1/42, dated the 31st October 1942,

Provided that no person shall be convicted of such contravention if the Court is satisfied that his refusal, abstention or threat, as the case may be, was not intended to harass the public servant or person affected thereby in the discharge of the duties of his office or employment, or to cause him to terminate his services or fail in his duty or commit a breach of discipline.]”

**1[81-F.**—Notwithstanding anything contained in section 19 of Power to postpone the Press and Registration of Books Act, publication of memoranda under section 1887, any Provincial Government may, if it is of Act XXV of 1887 considers it necessary so to do for conserving supplies of paper, postpone the publication in the Official Gazette of the Memoranda referred to in that Section.]

**81<sup>2</sup>-G.**—(1) Notwithstanding anything contained in sections 82 and 151 of the Indian Companies Act, 1913, Modification of annual list of members returnable under section 32 of Act VII of 1913 Company having more than 50 members shall be deemed to have complied with the requirements of the said sections in respect of the annual list of members (other than the first) for the year 1948 or any subsequent year if, instead of making every year the list referred to in sub-section (1) of section 82 in the form prescribed for the purpose in Form E of the third schedule to the said Act, the Company furnishes a statement showing all changes in membership and in the number of classes held by members that have taken place since the date of the list returns together with the summary prescribed in sub-section (2) of the said section 82, and files with the Registrar of Joint Stock Companies a copy of the same in the manner provided in sub-section (3) thereof.

(2) The Central Government may by order prescribe the particulars which shall be contained in the statement referred to in sub-rule 1

**82** (1) No owner of a mine shall, without the previous

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1. Added by D Dept notification No 5 D C (15)/43 dated the 27th March 1943

2. Inserted by D Dept. No 5—D C (15)/43 dated the 19th June 1943,

sanction of the Central Government, transfer  
 Restriction on transfer of mines. the mine or any interest therein to any person  
 other than a British subject, or to a foreign-  
 controlled company

(2) If —

(a) any person to whom a transfer of any mine has been made in contravention of this rule, or

(b) any agent entrusted with the charge, control or management of a mine by or on behalf of any person to whom a transfer of a mine has been made in contravention of this rule, and having reason to believe that this rule has been so contravened, works such mine or removes any produce or output thereof, he shall be deemed to have contravened this rule

(3) In this rule—

(a) "British subject" means a person who is a natural-born British subject within the meaning of the British Nationality and Status of Alien Act, 1914, and includes a subject of an Indian State,

(b) "foreign-controlled company" includes any company, firm or association or body of individuals whether incorporated or not—

(i) which is not established in and subject to the laws of some part of His Majesty's dominions or of some British Protectorate, and has not its principal place of business therein ; or,

(ii) in which the majority of the directors or of the partners or of the persons occupying the position of directors or partners, by whatever name called, are not British subjects, or

(iii) in which the majority of the voting power or the predominant interest is in the hands of persons who are not British subjects or of persons who exercise their voting power or hold their interest directly or indirectly on behalf of persons who are not British subjects, or

(iv) of which the control is by any other means whatever in the hands of persons who are not British subjects, or

(v) of which the managing body is a company, or the majority

of the managing body are appointed by a company, of the nature described in any of the above sub-clauses ;

(c) " mine " includes a quarry and any mineral deposit or land known or believed to contain a mineral deposit of commercial value ;

(d) " owner " includes a lessee, any person having a transferable interest and any agent of an owner or a lessee or of any person having such interest.

(4) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to five years <sup>1</sup>(or with fine or with both).

**83.** [*Requisitioning of movable property*] Omitted by D.C. Department Notification No. 1336 OR/42, dated the 25th April 1942.

**84.** (1) In this rule—

(a) " import " means bringing into British India by sea, land or air ;

Power to prohibit or restrict the import and export of goods. India by sea, land or air ,

(b) " export " means taking out of British

(2) The Central Government may by notified order prohibit or restrict the import or export of all goods or goods of any specified description, from or to any specified person or class of persons.

<sup>2</sup>[(3) The Central Government may by notified order make provision for prohibiting, restricting or otherwise controlling, in all cases or in specified classes of cases, and subject to such exceptions, if any, as may be made <sup>3</sup>[by or under the order ;—

(i) the import, export, carriage coastwise or shipment as ships' stores of all goods or goods of any specified description ;

(ii) the shipment of fresh water on seagoing vessels] ;

1. Substituted by D. C. Dept. notification No. 701-OR/41, dated the 15th February 1941 for the words " and shall also be liable to fine ".

2. Substituted by D. Dept, notification No 313-OR/39, dated the 5th January 1940, for the original sub-rule (3)

3. Substituted by D C Dept notification No 592-OR/40, dated the 2nd November 1940, for the words " by or under the order, the import or export or the carriage coastwise or the shipment as ships' stores, of all goods or goods of any specified description."

<sup>1</sup>(iii) the bringing into any port or place in British India of goods of any specified description intended to be taken out of British India without being removed from the ship or conveyance in which they are being carried

(4) Where, by an order made under sub-rule (2) of sub-rule (8), the import or export or the carriage coastwise or the shipment as ships, stores or *the bringing into any port or place*<sup>1</sup> of any goods or *any shipment of fresh water*<sup>2</sup> is prohibited, restricted or otherwise controlled, such goods or *as the case may be such fresh water*<sup>3</sup> shall be deemed to be goods of which the import or export has been prohibited or restricted under section 19 of the Sea Customs Act, 1878 and all the provisions of that shall have effect accordingly, *except that section 183 thereof shall have effect as if for the word "shall" in that section the word "may" were substituted*<sup>4</sup>.

<sup>4</sup>(5) Notwithstanding anything contained in the Sea Customs Act, 1878, the Central Government may by order, prohibit, restrict, or impose conditions on the clearance whether for home consumption or for shipment to a foreign port of any goods imported into British India

*Notes.*—Under the notification issued by the Central Government under rule 84 prohibiting the import of iron and steel of specified description with certain exceptions, an applicant cannot ask for an import license as of right even in the case of goods ordered before 1st January, 1941. It is within the discretion of the steel controller's department to grant the license or to refuse it and with that direction the court cannot interfere and a suit cannot lie. A. I. R. 1942 Calcutta 51.

The section makes applicable the provisions of the Sea Customs Act, 1878 (Act VIII of 1878) regarding the prohibition, restric-

1. Inserted by D. C Dept. notification No 607—OR/40 dated the 30th Nov. 1940

2. Inserted by D. C Dept. notification No 592-OR/40 dated the 2nd Nov 1940

3. Inserted by D. C Dept notification No. 665-OR/41 dated the 25th January 1941

4. Added by D. C Dept notification No. 672-OR/41 dated the 12th August, 1941

tion or otherwise, controlling the import or export of any goods  
Section, 19 of the Sea Customs Act, 1878 runs as—

“The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, prohibit or restrict the bringing or taking by sea or by land goods, of any specified description into or out of British India or any specified part thereof either generally or from or to any specified country, region, port or place beyond the limits of British India.”

Section 188 of the same Act runs as.—

“Whenever confiscation is authorised by this Act, the officer adjudging it shall give the owner of the goods an option to pay in lieu of confiscation such fine as the officer thinks fit”

84 A. (1) In rule 84 B, unless there is anything repugnant in the subject or context,—

Definitions.

(a) “Enemy” and “enemy subject” have the meanings respectively assigned to them by rules 97 and 103;

(b) “Design”, invention “patent”, and “patentee” have the meanings respectively assigned to them by section 2 of the Indian Patents and Designs Act, 1911.

(2) Where a patent has been granted to any person in respect of an invention communicated to him by some person, that other person shall, for the purposes of rule 84B, be deemed to have an interest in the patent unless the contrary is proved

Notes.—For the definition of the word “enemy” and “enemy subject” see rules 97 and 103 *infra* respectively. The definitions of the words, “design”, “invention” “patent” and “patentee” have been defined in the Indian Patents and Designs Act, 1911 (Act No II of 1911) as—

“Design” means only the features of shape, configuration, pattern or ornament applied to any article by any industrial process or means, whether manual, mechanical or chemical, separate or combined, which in the finished article appeal to and are judged solely by the eye, but does not include any mode or principle of construction or anything which is in substance a mere mechanical device, and does not include any trade mark



as defined in section 478, or property mark as defined in section 479, of the Indian Penal Code.

“ Invention ” means any manner of new manufacture, and includes an improvement and an alleged invention.

“ Patent ” means a patent granted under the provisions of this Act.

“ Patentee ” means the person for the time being entered on the register of patents, kept under this Act as the grantee or proprietor of the patent

184 B Where—

(a) An enemy or an enemy subject is, or has at any time subsequent to the 2nd September 1939 been whether alone or jointly with any other person, the proprietor of a patent or registered design, or entitled to any other interest in a patent or registered design (not being merely the interest of a licensee), and

(b) the Central Government is satisfied that it is expedient for securing the defence of British India or the efficient prosecution of the War or for maintaining supplies and services essential to the life of the community that the rights conferred by the patent should be exercised, or that the design should be applied, as the case may be, and that a person who is not an enemy or an enemy subject desires to exercise the said rights or apply the said design and is in a position so to do, the Central Government may on the application of that person, make an order granting to him a licence under the patent or for the application of the term of the patent or the registration, or for such less period as the Central Government thinks fit

(2) The power of the Central Government under this rule to make order granting a licence shall include the power—

(a) to make an order granting an exclusive licence ,

(b) to make an order granting a licence in relation to a patent or registered design, notwithstanding that a licence, whether exclusive

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1 Inserted by D C Dept notification No 334-OR/40, dated the 17th February 1940

or otherwise (not being an exclusive licence granted by virtue of the powers conferred by this rule), is in force in relation thereto, and

(c) to make an order granting a licence on any terms that the Central Government may think expedient

(3) Where, under the power conferred by this rule, the Central Government makes an order granting a licence in relation to a patent or registered design, in relation to which any other licence has been granted otherwise than by an order made under this rule, the Central Government may, in relation to that other licence, make such order—

(a) revoking the licence,

(b) revoking or varying any conditions subject to which the licence has effect; or

(c) revoking or varying any of the provisions of a contract relating to the licence in so far as they relate thereto, as appears to it to be expedient having regard to the order made under sub-rule, (1).

“(3A) where, under the power conferred by this rule, the Central Government has made an order granting a licence under a patent in which an enemy or an enemy subject was or had been interested, a licence under the patent granted by any other person after the making of said order or the coming into force of this sub-rule whichever is later, shall be void unless before the granting thereof that other person has applied for and obtained a certificate of approval by the Central Government of the granting of the licence and of the terms thereof, and shall cease to have effect if any conditions subject to which the certificate was granted are contravened or not complied with,

Provided that this sub-rule shall not affect—

(a) a licence granted under any powers conferred by the said order of the Central Government, or

(b) a licence granted, whether expressly or by implication, to a person acquiring any article if the licence was granted to him

1. Inserted by D. C. Dept. notification No S-D. C (26)/43 dated the 8th May, 1943.

as being a person acquiring that article and not as being a particular persons "

(4) An order granting a licence under this rule, shall without prejudice to any other method of enforcement, operate as if it were embodied in a deed granting the licence which the patentee or the proprietor of the registered design, as the case may be, and all other parties having any interest therein, had executed with full capacity so to do, and the order shall accordingly operate to take away from any such party any right in relation thereto, the exercise whereof would be inconsistent with the exercise of the licence in accordance with and subject to the terms on which it is granted.

(5) A licensee under a licence granted under this rule may institute proceedings for infringement in his own name as though he were the patentee or the proprietor of the registered design, as the case may be, so, however, that any person other than an enemy who, whether alone or jointly with any other person, is the patentee or the registered proprietor of a registered design, as the case may be, shall, unless the court in which the proceedings are taken thinks fit to direct otherwise, be made a party to the proceedings, either—

- (a) if he consents in writing thereto, as a plaintiff, or
- (b) if he does not so consent, as a defendant

Where any person is made defendant to any proceedings by virtue of this sub-rule, he shall not be liable for any costs unless he enters an appearance and takes part in the proceedings

(6) An order granting a licence under this rule shall give directions as to the person to whom or the manner in which the licensee is to pay or deal with any royalties or other payments to be paid in respect of the licence

(7) An order under this rule and a licence granted by such an order may be varied by a subsequent order made by the Central Government either —

- (a) where the licensee makes application to the Central Government for the variation thereof, or
- (b) where the Central Government is of opinion that circum-

stances have arisen which make it just and equitable, or that it is expedient for the purposes specified in clause (b) of sub-rule (1), that it should be varied.

(8) An order under this rule and a licence granted by such an order may be revoked by a subsequent order made by the Central Government in any of the following cases, that is to say ;—

(a) where the licensee makes application to the Central Government for the revocation thereof ;

(b) where it appears to the Central Government that it was obtained by any misrepresentation, whether international or not, or was made or granted without the Central Government having full knowledge of the material facts ;

(c) where the licensee has failed to comply with any term on which the licence was granted or with a direction given under sub-rule (6), or has failed to exercise the licence in such a manner as to satisfy the reasonable requirements of the public in relation to the invention or registered design, as the case may be, or has charged unreasonable or excessive prices in respect of anything made or done in the exercise of the licence ; or

(d) where the Central Government is of opinion that circumstances have arisen which make it just and equitable or that it is expedient for the purposes specified in clause (b) of sub-rule (1) that it should be revoked.

(9) Any licence granted under this rule may provide that the licensee may, subject to such conditions as may be imposed by the Central Government, adopt the name used by the patentee for describing or denoting the article or substance manufactured under the patent

(10) The fee to be paid on an application under this rule for an order—

(a) granting a licence,

(b) revoking any licence,

(c) revoking or varying any conditions subject to which any licence has effect, or

(d) revoking or varying any of the provisions of a contract relating to any licence in so far as they relate thereto, shall be rupees twenty in respect of each patent or registered design,

<sup>1</sup>[84C No order made by the Central Government under rule 84B shall be held to be invalid by reason only of a decision as to enemy character that any decision made for the purposes of the order that a particular person is an enemy or an enemy subject is wrong]

## PART XIII.

### TRANSPORT.

85 (1) The Central Government may, with a view to facilitating any operations of His Majesty's forces or the movement of persons or supplies in connexion with such operations, by general or special order—

(a) require any railway administration to give special facilities for the transport of such forces, persons or supplies as aforesaid;

(b) prohibit or restrict the use of any railway, port or aerodrome for such period as may be specified in order

(2) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to three years <sup>2</sup>[or with fine or with both].

<sup>3</sup>[85A. The Central Government may, by general or special order, direct any Railway Administration—

Control of carriage of goods by railways

(a) to give special facilities or preference for the transport of specified goods or specified classes of goods, or

(b) to refuse to carry specified goods or specified classes of goods, either entirely or between specified points, and notwithstanding anything to the contrary contained in the Indian Railways Act, 1890, a Railway Administration shall be bound to comply with any directions given to it under their rule.]

1 Inserted by D C Dept notification No 334-OR/40 dated the 17th February, 1940

2. Substituted by D- C Dept notification No 701-OR/41, dated the 15th February 1941 for the words " and shall also be liable to fine "

3 Inserted by D C Dept. notification No. 920-OR/59, dated, the 5th Nov 1939.

(2) The proceeds of every sale under sub-rule (1) shall be applied and the surplus, if any, disposed of, by the port authority as if the goods had been sold for the recovery of charges payable to it in respect thereof].

88. <sup>1</sup>[(1) If it appears to the Central Government to be necessary or expedient so to do for securing the defence of British India or the efficient prosecution of war or for maintaining supplies essential to the life of the community, the Central Government may by notified order declare that such restrictions imposed by or under any law for the time being in force as may be specified in the order shall not apply to the loading, unloading, handling, storage or conveyance or importation<sup>2</sup> of ammunitions, explosives or inflammable substances in the service of His Majesty, or under instructions given on behalf of Government, or for purposes of defence, or in such other circumstances, as may be specified in the order.]

(2) When a declaration has been made under sub-rule (1), the Central Government may by order make such provision as appears to it to be required in the interests of safety for regulating the loading, unloading, handling, storage, and conveyance of ammunitions, explosives and inflammable substances to which the declaration applies.

<sup>3</sup>[(3) The Chief Inspector of Explosives in India may, if it appears to him necessary or expedient so to do for any of the purposes mentioned in sub-rule (1), authorise in special cases the relaxation or modification of any restrictions imposed by or under any law on the loading, unloading, handling, storage or conveyance of ammunitions, explosives or inflammable substances].

1. Substituted by D. C. Dept notification No. 863-OR/41, dated the 2nd August 1941, for sub-rule (1) which substituted the original sub-rule by D. C. Dept notification No 496-OR/40, dated the 20th June -1942.

2. Inserted by D D notification No 5-D C (18)/43, dated the 3rd April 1943.

3. Added by D. Dept. notification No 1506-OR/42, dated the 3rd October 1942. Original sub-rule (3) of rule 88 was omitted by D. C. Dept notification No 496-OR/40, dated the 19th

<sup>1</sup>[88A (1) If it appears to the Central Government to be necessary or expedient so to do for securing Vehicles belonging to the Central Govt the defence of British India or the efficient prosecution of war, the Central Government may by notified order declare that nothing in any restriction imposed by or under any law for the time being in force shall apply to, or to the driver or person in charge of, any vehicle or class of vehicles which is the property of the Central Government in the Defence Department or which is otherwise in the service of His Majesty for purposes of Defence <sup>2</sup>[or which is engaged in any such work as may be specified by the Central Government]

(2) When a declaration has been made under sub-rule (1), the Central Government may by order make such provision as appears to it to be required in the interests of safety for regulating the use of the vehicle or class of vehicles to which, or the qualifications or conduct of the driver or person in charge to whom, the declaration applies.]

89 (1) In this rule—

Control of <sup>3</sup>[road and water transport] (a) 'vehicle' means any vehicle used or capable of being used, for the purpose of road transport, whether propelled by mechanical power or otherwise, and whether used for drawing other vehicles or otherwise, and includes a tramcar and a trolley vehicle,

(b) "animal" means any animal used, or capable of being used, for the transport of persons or goods

<sup>4</sup>[(c) 'water transport' means transport on inland waterways <sup>5</sup>[or tidal waters or along the coast].]

1 Inserted by D C. Dept notification No. 262-OR/39, dated, the 28th Sept. 1940.

2 Inserted by D C. Dept. notification No. 817-OR/41, dated the 7th June 1941.

3. Substituted by D C Dept notification No. 409-OR/40, dated the 12th April 1941, for the words "road transport"

4. Inserted by D C Dept notification No. 409-OR/40, dated the 12th April 1941, for the words road transport'

5 Inserted by D C Dept notification No. 1331-OR/42, dated the 11th April 1942.

(2) Without prejudice to any other provision of these Rules, the Central Government or the Provincial Government may by order—

(a) regulate, restrict or give direction with respect to, the use of any animal or vehicle for the purpose of road transport, or the sale or purchase of any animal or vehicle ;

(b) require any person owning, or having<sup>1</sup> in his possession or under his control, any animal or vehicle to make to any person specified in this behalf a return giving such particulars as may be specified in the order with regard to such animal or vehicle and require such return to be verified in such manner as may be specified in the order ,

(c) require any person owning, or having in his possession or under his control, any animal or vehicle to give notice in such manner as may be specified in the order before disposing thereof or allowing it to pass out of his possession or control ,

(d) require any person owning, <sup>1</sup>[or employed in connection with], or having in his possession or under his control, any animal or vehicle to comply with any direction given by any person specified in, or duly authorised in pursuance of, the order , and such directions may require the person owning, <sup>1</sup>[or employed in connection with], or having in his possession or under his control, any animal or vehicle to use such animal or vehicle for the conveyance of such persons or goods at such time and by such routes as may be set forth in the directions ,

(e) prescribe the conditions subject to which, and the rates at which, any animal or vehicle may be hired for the purpose of road transport and persons and goods may be carried by road and the conditions subject to which goods so carried or to be carried may be discharged or loaded ,

(f) provide for prohibiting or restricting the carriage of persons or goods of any class by road and for prescribing the radius or distance within which persons or goods of any class may be carried by road ;

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1. Inserted by D C Dept notification No 409-OR/40, dated the 12th April 1941.



<sup>1</sup>[(ff) provide for prohibiting any person or class of persons from travelling by any vehicle or class of vehicles .]

(g) provide for the giving of directions with respect to the carriage of persons or goods on any particular vehicle, or by any particular route, or to any particular clearing house or depot ,

<sup>2</sup>(gg) provide for prohibiting or restricting the carriage of persons or goods by any vehicle or class of vehicles, either generally or between any particular places or on any particular route ,]

(h) provide for the regulation of the priority in which persons and goods are to be carried by road and vehicles are to be used for the purpose of road transport ,

(i) make such other provisions in relation to road transport as appear to that Government to be necessary or expedient for <sup>3</sup>[securing the defence of British India, the public safety, the maintenance of public order or the efficient prosecution of the war, or for maintaining supplies and services essential to the life of the community]

<sup>4</sup>[(2) If any other person authorised by the Central Government or the Provincial Government in this behalf has reason to believe that any animal or vehicle is, or is kept, in or upon any building, land or other premises, or is being used by any person in contravention of an order made under sub-rule (2), such officer or person may—

(i) enter and search such building, land or other premises, and seize any animal or vehicle found therein or thereon which he suspects to be therein or thereon in contravention of the order ;

(ii) stop such person and seize any animal or vehicle which is being used in contravention of the order

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1 Inserted by D G Dept notification No. 409-OR/40, dated the 12th April 1941

2. Inserted by D C Dept notification No 1174-OR/41, dated the 23rd Dec 1941

3 Substituted by D C Dept notification No 409-OR/40, dated the 12th April 1941, for the words "the regulation of traffic on highways"

4 Inserted by D C. Dept notification No 1389-OR/42, dated the 8th May. 1942.

(4) The Central Government or the Provincial Government may declare any animal or vehicle seized in pursuance of sub-rule (3) to be forfeited to His Majesty and thereupon such animal or vehicle shall be disposed of in such manner as may be ordered by that Government]

<sup>1</sup>[(5) The provisions of <sup>2</sup>[sub-rules (2), (3), and (4)] shall also apply in relation to water transport and vessels used or capable of being used for the purpose of water transport as they apply in relation to road transport and vehicles]

<sup>3</sup>[(6)] If any person contravenes any orders made in pursuance of this rule, he shall be punishable with imprisonment for a term which may extend to six months <sup>4</sup>[or with fine or with both]

## PART XIV

### FINANCIAL PROVISIONS

90. (1)<sup>5</sup> In this rule —

Prohibition re- (i) the expression "coin" means coin  
garding coins and which is legal tender under the Indian  
notes Coinage Act, 1905, .. . <sup>6</sup>

(ii) the expression "note" means a Reserve Bank of India note, a currency note of the Government of India or a Government of India one rupee note issued under the Currency Ordinance, 1940

1. Inserted by D. C. Dept. notification No. 409-OR/40 dated the 12th April 1941.

2. Re-numbered for sub-rules (2A) and (3) by D. C. Dept. notification No. 1389 OR/42 dated the 8th May 1942

3. Substituted by D. C. Dept. notification No. 1389-OR/42, dated the 8th May 1942, for the word, brackets and figure 'sub-rule (2) '.

4. Substituted by D. C. Dept. notification No. 701-OR/41, dated the 15th February 1941, for the words "and shall also be liable to fine '.

5. Substituted by D. C. Dept. notification No. 494-OR/40, dated the 31st August 1940, for the original sub-clause (1) as amended by D. C. Dept. notification No. 494-OR/40 dated the 25th July 1940.

6. The word 'and' omitted by D. C. Dept. notification No. 5 D. C. (21)/43, dated the 17th April 1943

<sup>1</sup>(iii) the word "small coin" means any coin other than a rupee.

(2) No person shall—

(a) buy or sell, or offer to buy or sell, for an amount other than its face value, any coin or note,<sup>2</sup> or

(b) accept or offer to accept, in payment of a debt or otherwise any <sup>3</sup> coin or note for an amount other than its face value; or<sup>4</sup> ;

(c) refuse to accept, in payment of a debt or otherwise, any <sup>5</sup> coin or note ; or<sup>6</sup>

(d) acquire coin to an amount in excess of his personal or business requirements for the time being which, in the case of an acquisition of coins from any Currency Office, Treasury or Sub-Treasury or branch of the Imperial Bank of India doing treasury business, shall be determined by the officer incharge of such Currency Office, Treasury, Sub-Treasury or branch whose determination shall be final and shall not be called in question in any legal proceeding, "or,

(e) possess small coin to an amount in excess of his personal or business requirements for the time being"<sup>3</sup>

(3) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to five years or with fine or with both.<sup>8</sup>

1. Inserted by D Dept notification No 5 D C (21)/43, dated the 17th April 1943.

2. Substituted by D C Dept notification 494-OR/40, dated the 31st August 1940 for the words, "Reserve Bank of India note or Currency note of the Government of India"

3 The word "such" omitted by D C, Dept. notification No 494-OR/40, dated the 31st August 1940

4 Inserted by D C Dept notification No 494-OR/40, dated the 10th June 1940

5 Inserted by D C Dept notification No 494-OR/40, dated the 25th June 1940

6 Substituted by D C Dept notification 701-OR/41, dated the 15th February 1941 for the words, 'and shall also be liable to fine',

190-A. (1) The Central Government may, if it is of opinion that it is expedient so to do for the purpose of controlling the price of silver in British India, impose on any person authorised to import silver into British India such conditions as it thinks fit regarding the use or disposal of, or dealings in, silver imported in pursuance of such authorisation.

(2) If any person contravenes any of the conditions imposed under sub-rule (1) he shall, without prejudice to any other action that may be taken against him, be punishable with imprisonment for a term which may extend to five years or with fine or with both.<sup>2</sup>

190-B. (1) In this rule "money" means any coin other than a gold coin,<sup>3</sup> or currency note which is legal tender in British India or elsewhere, and includes bills of exchange, and "gold" means gold in the form of coin, whether legal tender or not, or bullion or ingot whether refined or not.<sup>3</sup>

(2) No person shall except with the permission of the Reserve Bank of India or of a person authorised in this behalf by the said Bank, take or send out of British India .....<sup>4</sup> any money<sup>3</sup> in excess of such amount as may be specified in this behalf by the said Bank, or any gold.<sup>3</sup>

<sup>5</sup>(3) The restrictions imposed by sub-rule (2) on the export of

1. Inserted by D C Dept. notification No. 334-OR/40, dated the 17th February 1940.

2. Substituted by D. C. Dept notification No 701-OR/41, dated the 15th February 1941 for the words, "and shall also be liable to fine"

3. Substituted by D. C Dept notification No 860-OR/41, dated the 30th November 1943.

4. The words, "to a place or country outside India and Burmah", omitted by D Dept notification No 1427-OR/42 dated the 14th August 1943

5. Substituted by D C. Dept notification No. 860-OR/41, dated the 14th June 1941 for the original sub-rules (3), (4), (5), (6) and (7) of rule 90B, as amended by D C. Dept. notification Nos, 701-OR/41, and 591-OR/40, dated the 15th February and 1st March 1941 respectively.

money or gold shall be deemed to have been imposed under section 19 of the Sea Customs Act, 1878, and all the provisions of that Act shall have effect accordingly ,

Provided that where in respect of any contravention of this rule the Customs-Collector is of opinion that the penalties provided by the said Act are inadequate, he may make a complaint to a magistrate having jurisdiction , and the accused person shall, upon conviction, be punishable with imprisonment for a term which may extend to five years or with fine or with both, and the money or gold in respect of which the offence has been committed shall be confiscated to the Central Government and delivered to the Customs-Controller for disposal

*Notes.*—Where a person is properly searched by a Customs Officer under this rule and he is found to possess money in contravention of sub-rule (2) read with rule 121, the Customs Officer is entitled to seize the excess money and to deposit it in such manner as the Government may direct. No court has any jurisdiction to pass any order in respect of it if it holds that the property was rightly seized, since rule 90 B prevails over section 517, Criminal Procedure Code under which property produced in the course of a criminal trial may be dealt with by order of the Court. A. I. R. 1941 Bombay 412. But a contrary view was taken in A. I. R. 1944 Mad 125 where it was held that section 517, Criminal Procedure Code applies to an offence under rule 90 (c) by reason of rule 124, Defence of India Rules. The Magistrate, therefore, has power under section 517, Criminal Procedure Code to order confiscation of the hoarded coins in respect of which the accused is found guilty under rule 90 (3). If, however, any person is to be prosecuted under this rule the Customs-Officer must ask him to declare with full details the money and gold which he has. If such an order or request is not made, no person can be convicted. A. I. R. 1941 Bombay, 412

For section 19 of the Sea Customs Act, 1878 see rule 84 B supra and notes there under.

1490 C (1) In this rule—

Control of dealings in bullion. (a) "bullion" means gold, or silver bullion  
(b) "contract" means a contract made, or to be performed in whole or in part, in British India relating to the sale or purchase of bullion, and includes an option in bullion,

(c) 'forward contract' means a contract for the delivery of bullion at a future date, such date being later than four<sup>1</sup> days from the date of the contract,

(d) 'option in bullion' means a contract made, or to be performed in whole or in part, in British India for the purchase or sale of a right to buy, or a right to sell, or a right to buy or sell, bullion in future, and includes a *teji*, a *mandi* or a *teji mandi* in bullion.

(2) No person shall enter into any forward contract or option in bullion.

(3) If any person contravenes the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to five years or with fine or with both "

91. (1) For the purposes of this rule and of rule 92 the expression "foreign exchange" means --

Restriction on purchases of foreign exchange (a) any currency other than currency which is legal tender in British India or in any Indian State or Burma,

(b) any bill or promissory note, payable otherwise than in rupees, and

(c) any credit or balance otherwise than in rupees

(2) No person resident in British India shall acquire any foreign exchange, or transfer rupees, gold coin or bullion or securities with a view, directly or indirectly, to the acquisition of any foreign exchange

(3) No person shall buy or borrow from, or sell or lend to, any

1. Inserted by D Dept notification No 5. D C (30)/43, dated the 29th May 1943.

2. The word, 'twelve' substituted by D Dept notification No. 5 D. C. (40)/43, dated the 5th August 1943

person not authorised by the <sup>1</sup>[Reserve Bank of India] in this behalf any foreign exchange <sup>2</sup>[other than gold sovereign].

(4) The provisions of this rule shall not restrict the doing of anything within the scope of his authority, by a person authorised <sup>3</sup>[by the Reserve Bank of India] to deal in foreign exchange, and shall not restrict the doing of anything which is authorised <sup>3</sup>[by the Reserve Bank of India] to be necessary for the purpose—

(a) of meeting the reasonable requirements of a trade or business carried on in India, or

(b) of performing a contract made before the 3rd September 1930, or

(c) of defraying reasonable travelling or other personal expenses,

(5) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term, which may extend to five years, <sup>4</sup>[or with fine or with both].

92. <sup>5</sup>[(1) The Central Government may by notified order direct the owners of any such foreign exchange as is specified in the order to make a return to the Reserve Bank of India within such period, and giving such particulars as to the foreign exchange, as may be specified in the order]

<sup>6</sup>[(12)] On the issue of a notification by the Central Government in this behalf, every person who owns any such foreign exchange as may be specified in that notification shall offer it, or

1 Substituted by Finance Department notification No. 123-S R B., dated the 4th September 1939, for the words "Central Government"

2 Substituted by D. C. Dept. notification No. 634-OR/41 R.B., dated the 4th Sep 1941 for the words "Gold Coin or bullion"

3 Substituted by Finance Dept. notification No. 123 S R. B., dated the 4th July 1939 for the words, "by or on behalf of the Central Government"

4 Substituted by D. C. Dept. notification No. 701-OR/41, dated the 15th February 1941, for the words 'and shall also be liable to fine'.

5 Inserted by D. C. Dept. notification No. 510-OR/40, dated the 29th June 1939.

6 Original sub-rule (1) re-numbered as sub-rule (2) and added

cause it to be offered for sale to the Reserve Bank of India on behalf of the Central Government at such price as the Central Government may from time to time fix.

Provided that—

(a) any person may be exempted from the operation of this rule by order of the Central Government, and

(b) any person, who satisfies the Reserve Bank of India that he requires the foreign exchange in question for any of the purposes specified in sub-rule (4) of rule 91, shall be exempted from the operation of this rule.

<sup>1</sup>[(3)] If any person contravenes the provisions of this rule, <sup>2</sup>[or any order made thereunder] he shall be punishable with imprisonment for a term which may extend to five years <sup>3</sup>[or with fine or with both]

<sup>4</sup>[92 A (1) For the purposes of this rule—

*Restrictions of payments etc.* (i) 'sterling area,' means His Majesty's dominions, excluding Canada, Newfoundland and Hong Kong, the British protectorates and protected States, and such other territories as may be declared by the Reserve Bank of India to be included for the time being in the sterling area,

(ii) "security" includes shares stock bonds, debentures, debenture stock, deposit receipts in respect of the deposit of securities, units or subunits of a unit trust, coupons representing dividends or interest, and life or endowment assurance policies, but does not include bills of exchange and promissory notes,

(iii) "transfer" includes, in relation to any security, transfer by way of loan or security.

1 Original sub-rule (2) re-numbered as sub-rule (3) by D C, Dept. notification No. 510-OR/41, dated the 29th June, 1940.

2. Inserted by D C Dept notification No. 1500-OR/42, dated 18th July 1942

3 Substituted by D. C Dept notification No 701-OR/41, dated the 15th February 1941, for the words " and shall also be liable to fine ".

4 Rules 92A and 92B inserted by D C Dept notification No. 931-OR/41 dated the 12th July 1941.



(2) Subject to any exemptions which may be granted by the Reserve Bank of India no person resident in British India shall except with the permission of the Reserve Bank of India,—

(a) draw, issue or negotiate any bill of exchange or promissory note, or acknowledge any debt, so that a right (whether actual or contingent) to receive a payment in India is created or transferred in favour of a person who is resident outside the sterling area, \* \* \*

(b) make any payment to, or by the order or on behalf of any such person

<sup>2</sup>[(c) transfer any security, or create or transfer any interest in a security, to or in favour of any such person

(d) transfer any security from a register in British India to a register outside the sterling area, or do any act which is calculated to secure, or forms part of a series of acts which together are calculated to secure, the substitution for any security which is either in, or registered in, British India of any security which is either outside, or registered outside the sterling area]

(3) Subject to any exemptions which may be granted by the Reserve Bank of India no person resident in British India shall, except with the permission of the Reserve Bank of India,—

(a) draw, issue or negotiate any bill of exchange or promissory note, transfer any security or knowledge any debt so that a right (whether actual or contingent) to receive a payment in India is created or transferred in favour of a person not resident outside the sterling area as consideration for, or in association with,—

(i) the receipt by any person of a payment or the acquisition by any person of property, outside the sterling area, or

(ii) the creation or transfer, in favour of any person of a right (whether actual or contingent) to receive a payment or acquire property, outside the sterling area, or

(b) make any payment to a person not resident outside the sterling area as such consideration or in such association as aforesaid

<sup>2</sup>[(3A) Where at any time the following conditions are fulfilled

1 The word "or" omitted by D Dept, notification No 1510-OR/42, dated the 25th July 1942

2 Inserted by D Dept notification No 1510-OR/42 dated the 25th July 1942.

in the case of any individual, namely that he is outside the sterling area and that either—

(a) he was on the third day of September, 1939, a British subject resident in British India and has not since that day been in India, or

(b) he is, by virtue of a direction given by the Reserve Bank of India under sub-rule (4) or under sub-rule (5), to be treated for the purpose of this rule as resident outside the sterling area, the Reserve Bank of India may give a direction to any bank that, until the direction is revoked, any sum from time to time standing to the credit of an account of that individual at any office or branch of the bank in British India specified in the direction shall not be dealt with except with permission granted by the Reserve Bank of India].

(4) Where an individual has at any time since the third day of September, 1939, <sup>1</sup>[been] in British India],

(a) until the Reserve Bank of India otherwise directs, he shall be treated for the purposes of this rule and of any order providing for exemptions from any of the provisions thereof, as having been, and as still being resident in British India and not resident outside the sterling area, and,—

(b) if any such direction is given, the Reserve Bank of India may, by the same or a subsequent direction, declare the territory in which, for those purposes, he is to be treated as being resident.

(5) In the case of any persons to whom sub-rule (4) does not apply, the Reserve Bank of India may give directions declaring the territories in which, for the purposes of this rule and of any order providing for exemptions from any of the provisions thereof, they are to be treated as being resident

(6) Any direction given under <sup>2</sup>[sub-rule (3A) sub-rule (4) or sub-rule (5) may be either general or special, and may be revoked or varied by a subsequent direction thereunder

(7) If any person contravenes the provisions of this rule he shall be punishable with imprisonment for a term which may

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1. Substituted by *ibid.* for the word "resided"

2. Inserted by Dept. Notification No 1510-OR/42, dated the 5th Jul 1942.

extend to five years or with fine or with both.

(8) Nothing in this rule shall restrict the doing by a person authorised by or on behalf of the Reserve Bank of India anything within the scope of his authority.

**92B** (1) For the purpose of this rule —

(i) the expression “blocked account” means an account blocked by an order of the Reserve Bank of India, or an account opened as a blocked account, at an office or branch in British India of a Bank authorised by the Reserve Bank of India to open blocked accounts, and

(ii) the expression “the banker” means, in relation to any person a banker who opens or keeps a blocked account in favour of that person.

(2) Where permission is granted by the Reserve Bank of India for the payment of any sum to any person resident outside the sterling area, but the permission is granted subject to the condition that the payment is made to a blocked account —

(a) the manner in which the payment may be made shall be either—

(i) to the banker with a direction that it is to be credited to a blocked account of that person [which direction may, in the case of a payment by means of a cheque or warrant, be made by marking the cheque or warrant with the words ‘blocked account of’ (naming the person in question) or to the same effect, or

(ii) by a crossed cheque or warrant drawn in favour of that person, marked with the words, payable only to blocked account of payee’ or words to the same effect,

(b) the sum collected shall be credited by the banker to a blocked account of that person; and

(c) the crediting of that sum to that account shall, to the extent of the sum credited be a good discharge to the person making the payment

(3) Subject to any exemptions which may be granted by order of the Reserve Bank of India, any sum standing to the credit of a blocked account shall not be dealt with except and in accordance with permission granted by the Reserve Bank of India.]

<sup>4</sup>92C (1) If the Central Government is of opinion that it is necessary or expedient so to do for securing the defence of British India or the efficient prosecution of war, the Central Government may give general or special directions prohibiting, either absolutely or to such extent as may be specified in the directions, the carrying out of any order given by or on behalf of—

(a) any State which may be specified in the directions, the Sovereign thereof, or any person resident therein, or

(b) any body corporate which is incorporated under the laws of that State or is under the control of that State or the Sovereign thereof or any person resident therein ;

in so far as the order—

(i) requires the person to whom the order is given to make any payment or to part with any gold or securities, or

(ii) require any change to be made in the persons to whose credit any sum is to stand or to whose order any gold or securities are to be held

(2) If any person contravenes any direction given under this rule he shall be punishable with imprisonment for a term which may extend to five years or with fine, or with both ]

92D. (1) Where any goods have been exported from British India to any territory in respect of which an order has been issued by the Central Government under sub-rule (3) of rule 84 prohibiting the export of any goods to that territory unless a declaration furnished to the Collector of Customs by the exporter that foreign exchange representing the fair market value of the goods at port of embarkation has been or will be disposed of in a manner and within a period approved by the Reserve Bank of India, no person entitled to sell, or to procure the sale of, the said goods, shall, except with the permission of the Reserve Bank of India, do or

1. Inserted by D C Dept notification No 1958-OR/51, dated the 28th July 1941

2. Inserted by D Dept notification No 1510-OR/42, dated the 28th July 1942

retrain from doing, any act with intent to secure that—

(a) the sale of the goods is delayed to an extent which is unreasonable having regard to the ordinary course of trade, or

(b) payment for the goods is not made to a person resident in the sterling area as defined in rule 92A, or is made in a manner other than that approved by the Reserve Bank, or does not represent the full value of the goods, subject to such deductions, if any, as may be allowed by the Reserve Bank, or is delayed to such an extent as aforesaid.

(2) Where in relation to any such goods the said period has elapsed and the goods have not been sold and payment thereof has not been made as aforesaid, the Reserve Bank of India, may give to any person entitled to sell the goods, or to procure the sale thereof, such directions as appear to the Reserve Bank to be expedient for the purpose of securing the sale of the goods and payment thereof as aforesaid, and, without prejudice to the generality of the foregoing provisions of this paragraph, may direct that the goods shall be assigned to the Central Government or to a person specified in the directions

(3) Where any goods are assigned in accordance with sub-rule (2), the Central Government shall pay to the person assigning them such sum in consideration of the net sum recovered by or on behalf of the Central Government in respect of the goods as may be determined by or on behalf of the Central Government

(4) If any person contravenes any of the provisions of this rule or any directions given thereunder he shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.]

93 (1) For the purposes of this rule and rule 94—

(a) the expression “ securities ” includes shares, stock bonds, debentures and debenture stock but does not include bills of exchange, and

(b) the expression “ export ”, in relation to securities, includes the transfer thereof from a register in India to a register outside India

(2) No person shall, except with the permission of the <sup>1</sup>[Reserve Bank of India] or in the performance of a contract made before the 3rd September 1939, acquire any securities from a person not resident in India or Burma

(8) No person shall, except with the permission of the <sup>1</sup>[Reserve Bank of India], export securities to any place outside India. \* \* \* \*2

(4) If any person contravenes the provisions of this rule, he shall be punishable with imprisonment for a term, which may extend to five years <sup>2</sup>[or with fine or with both].

<sup>1</sup>[93A. (1) No person shall buy or sell or offer to buy or sell, whether on behalf of himself or of any other person, any Government security as defined in section 2 of the Indian Securities Act, 1920, at less than such price as the Central Government may notify in this behalf.

(2) If any person contravenes the provisions of this rule he shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.]

94 (1) For the purposes of this rule—

(2) "foreign security" means a security issued in any country Acquisition by other than India<sup>2</sup> \* \* \* \*  
the Central Government of foreign securities

(a) "owner", in relation to any security, includes any person who has power to sell or transfer a security, or who has the custody thereof, or who receives, whether on his own behalf or on behalf of any other person, dividends or interest thereon, or who has any interest therein

(2) The Central Government may by notified order, direct

1 Substituted by Finance Dept notification No 123-S. R. B. dated the 4th September 1939, for the words "Central Government"

2 Omitted by D C. notification No 1427/OR/42 Dated the 14th August 1943.

3. Substituted by D C. Dept notification No 701-OR/41, dated the 15th February 1941, for the words "and shall also be liable to fine."

4. Inserted by D C Dept notification No 1257-OR/42, dated the 2nd March 1942

the owners of any foreign securities specified in the <sup>1</sup>[order] to make a return to the Reserve Bank of India, within such period and giving such particulars as to those securities, as may be specified in the order.

(3) The Central Government may, if it is of the opinion that it is expedient so to do for the purpose of strengthening its financial position, <sup>2</sup> [by notified order transfer to itself any foreign securities], specified in the order at a price so specified being a price which, in the opinion of the Central Government, is not less than the market value of the securities on the date of the order

(4) On the making of the order under sub-rule (3)—

(a) the securities to which the order relates shall forthwith vest in the Central Government free from any mortgage, pledge or charge, and the Central Government may deal with them in such manner as it thinks fit,

(b) the owner of any of the securities to which the order relates and any person who is responsible for keeping any registers or books in which any of those securities are registered or inscribed, or who is otherwise concerned with the registration, or inscription of any of those securities, shall do all such things as are necessary, or as the Central Government or the Reserve Bank of India, on behalf of Central Government, may order to be done, for the purpose of securing that the securities and any document of title relating thereto are delivered to the Central Government and, in the case of registered and inscribed securities are registered or inscribed in the name of the Central Government

(5) A Certificate signed by any person authorised in this behalf by the Central Government that any specified securities are securities transferred to the Central Government under this rule, shall be treated by all persons concerned as conclusive evidence that the securities have been so transferred

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1 Substituted by D C Dept, notification No 684 OR/41, dated the 25th January 1941, for the word "notification"

2 Substituted by *ibid*, for the words "by order transfer, to itself any such foreign securities as aforesaid".

(6). The provisions of this rule shall not apply to any security in respect of which the Central Government is satisfied that at all times since the 3rd September, 1939, all persons interested in the security, other than persons interested therein merely as trustees or merely by virtue of any mortgage, pledge or charge, but including any persons beneficially interested therein under the trust, were not resident in British India

(7) If any person contravenes any of the provisions of this rule, or any order made there under<sup>1</sup>, he shall be punishable with imprisonment for a term which may extend to five years or with fine or with both.<sup>2</sup>

<sup>3</sup>[94 A.] (1) For the purposes of this rule—

Control of Capital Issues (a) securities shall include shares, stocks, bonds, debentures and debenture stocks issued by or for the benefit of a company ;

(b) a person shall be deemed to make an issue of capital who issues any securities whether in cash or otherwise

(2) Subject to such exemptions as may be granted by order of the Central Government, no company, whether incorporated in British India or not, shall, except with the consent of the Central Government—

(a) make an issue of Capital in British India ,

(b) make in British India any public offer of securities for sale ,

(c) renew or postpone the date of maturity or payment of any security maturing for payment in British India,

“(2 A) The Central Government may qualify any consent accorded by it under sub-rule (2) with such conditions, whether for immediate or future fulfilment, as it may think fit to

1. Inserted by D. C Dept notification No. 1500-OR/42 dated the 18th July, 1942.

2. Substituted by D. C. Dept notification No 701-OR/41 dated the 18th February, 1941, for the words, ' and shall also be liable to fine.'"

3. Inserted by D Dept. notification No 5 D. C (27)/43 dated the 17th May, 1943

4. Inserted by D Dept notification No 5 D C (27)/43 dated the 23rd June, 1943



impose, and where a company acts in pursuance of such consent, it shall comply with the terms of any conditions so imposed "

(8) Subject to such exemptions as may be granted by order of the Central Government no Company incorporated in British India shall, except with the consent of the Central Government make an issue of Capital anywhere.

(4) Subject to such exemptions as may be granted by order of the Central Government no person shall issue in British India any prospectus or other document offering for subscription or publically offering for sale any security which does not include a statement that the consent of the Central Government has been obtained to the issue or offer of the securities

“(4 A) The Central Government may by order condone a contravention of sub-rule (2), sub-rule (3) or sub-rule (4), and on the making of such order the provisions of this rule shall have effect as if an exemption has been granted under sub-rule (2), sub-rule (3) or sub-rule (4), as the case may be, in favour of the thing done in contravention of such sub-rule ”

(5) No person shall subscribe for any securities issued by a Company in respect of any issue of Capital made in British India or elsewhere unless such issue has been made with the consent of the Central Government

“(5 A.) No person shall purchase or sell any securities issued, by a Company in respect of any issue of Capital made after the 17th May 1948 in British India or elsewhere, unless such issue has been made with the consent of the Central Government,” or *unless the security concerned is one which having before the 23rd June, 1943 been the subject of a translation which would have been prohibited if it had been effected on or after that date, is endorsed with a certificate by the Examiner of Capital issues or an officer authorised by him in this behalf that it has on this ground been exempted by the Central*

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1 Inserted by D Dept notification No 5 D C (27)/43 dated the 2nd August 1943

2 Inserted by D C. Dept notification No (27) dated the 23rd June 1943

*Government from the operation of this sub-rule.<sup>1</sup>*

**[94-B]** (1) The Central Government may, if it appears to it to be necessary or expedient for securing the efficient prosecution of war or for maintaining supplies and services essential to the life of the community, by notified order ;

(i) prohibit or restrict, either generally or in respect of any specified class of person or any specified class of transactions, the making of advances of money on the security of such commodities (including bullion) as may be specified in the order, and

(ii) require the repayment of any such advances outstanding on the date of the order within a specified period.

(2) If any person contravenes any order made under this rule he shall be punishable with imprisonment for a term which may extend to five years, or with fine or with both "

"94-C. (1) In this rule—

(a) "budla" includes a contango and a prohibition of backwardation and any other arrangement whereby the performance of any obligation under a contract to take or give delivery of securities within a stipulated period is postponed to some future date in consideration of the payment or receipt of interest or other charges ;

(b) "contract" means a contract made, or to be performed in whole or in part, in British India relating to the sale or purchase of securities ;

(c) "ready-delivery contract" means a contract which must be performed by the actual delivery of, or payment for, the securities specified therein on a date not later than the seventh day (or, if the seventh day happens to be a holiday, the business day next following) from the date of the contract .

(d) "securities" include stocks, shares, bonds, debentures and debenture stock and any other instrument of a like nature .

(e) "Stock Exchange" means any association, organisation

1 Inserted by D. Dept. notification No 5 D.C (27)/43 dated the 2nd August, 1943.

2. Inserted by D. Dept. notification No. 5 D C (37)/43 dated the 17th July 1943.

or body of individuals, whether incorporated or not, established for the purpose of assisting, regulating or controlling business in buying, selling and dealing in securities

(2) No Stock Exchange shall, after the 24th September, 1943, permit or afford facilities for,—

(a) the transaction of budla,

(b) the making of any contract other than a ready-delivery contract; or

(c) the carrying out or settlement of any budla transaction or any contract other than a ready-delivery contract

(3) Any Director, Manager, Secretary or other officer of a Stock Exchange who contravenes any of the provisions of this Rule shall be punishable with imprisonment for a term which may extend to five years or with fine or with both

Inserted by D Dept Notification No 5 D C. (47)/48 dated the 11th Sept, 1948

“(4) The Central Government may, by order authorise, subject to such conditions, if any, as it may impose, any Director, Manager, Secretary or other officer of a Stock Exchange to extend in any particular case, for reasons to be recorded in writing, the time for the performance of a “ready delivery contract specified in clause (c) of sub-rule (1)”

95 Before making any payment or transfer of funds at the request of any person, a bank shall require Banks to satisfy themselves that any declarations and information which may provisions are not be reasonably necessary to satisfy it that the contravened payment or transfer will not involve, and is not with a view to, the contravention of any of the provisions of these Rules by that or any other person

96 (1) Whenever in pursuance of any of Rules 49, 66, 72, 78, 79, \* \* \* \* and 80], any Compensations property is removed, destroyed, rendered useless, 4[used, requisitioned, or acquired] by, or otherwise placed

1 Inserted by D Dept Notification 5-D C. (4)/43, dated the 9th October, 1943

2 Substituted by *ibid* No 734-OR/41, dated the 9th August 1941, for the figures, word and brackets '73, 80 and "1 (3)"

3 The figures "78 and 79" omitted by D. C. Dept notification No 1338-OR/42 dated the 20th April 1941

4 Substituted by *ibid* No 900-SM/41, dated the 11th Oct, 1941, for the words "used or requisitioned."

at the disposal or under the control of the Central Government or a Provincial Government <sup>1</sup>[and the circumstances are not such as to render the provisions of <sup>2</sup>[section 19 of the Defence of India Act, 1939,] applicable], the owner of such property shall be paid such compensation for any loss he may have sustained as a result of such removal, destruction, rendering useless, use, requisitioning, <sup>3</sup>[acquisition] disposal or control, as may be fixed in accordance with the provisions of this rule.

(2) <sup>4</sup>[In default of agreement between Government and the owner of the property, the Central Government] or the Provincial Government, as the case may be, shall by general or special order specify the authority or person through which or whom any claim for compensation under <sup>5</sup>[sub-rule (1) shall be submitted and the authority or person by which or whom any such claim shall be adjudged and awarded.

(3) The Central Government or the Provincial Government, as the case may be may further by general or special order prescribe the conditions to which the authority or person responsible for adjudging or awarding claims for compensation shall have regard when determining the amount of compensation payable, and may give such supplementary orders as to the assessment and payment of compensation as may appear to it to be necessary or expedient.

## PART XV.

### CONTROL OF TRADING WITH ENEMY

97. For the purposes of this Part the expression "enemy" means—

Definitions.

(a) any State, or Sovereign of a State, at war with His Majesty, or

- 
1. Inserted by *ibid* No 209-OR/39, dated the 6th October 1939
  2. Substituted by *ibid* No. 261-OR/39, dated the 14th November 1939, for the words and figures "section 18 of the Ordinance"
  3. Inserted by *ibid*, No. 900 SM/41, dated the 11th October 1939.
  4. Substituted by D C Dept notification No 299-OR/39 dated the 4th November 1939, for the words "The Central Government"
  5. Substituted by D C Dept. notification No 209-OR/39, dated the 4th Nov, 1939, for the words "the preceding sub-rule,"

(b) any individual resident in enemy territory, or

(c) any body of persons constituted or incorporated *in enemy territory, or in, or under the laws of, a state at War with His Majesty,*<sup>1</sup> or

(d) any other person or body of persons declared by the Central Government to be an enemy, or

(e) any body of persons (whether corporated or not<sup>2</sup>) carrying on business in any place, if and so long as the body is controlled by a person who, under this rule, is an enemy,<sup>3</sup> or

(f) as respects any business carried on in enemy territory, any individual or body of persons (whether corporated or not,<sup>3</sup>) carrying on that business.

98 (1) For the purposes of this Part, a person shall be deemed to have traded with the enemy if he has had any commercial; financial or other intercourse or dealings with, or for the benefit of an enemy, and, in particular, but without prejudice to the generality of the foregoing provisions, if he has—

(i) supplied any goods to or for the benefit of an enemy, or obtained any goods from an enemy or traded in, or carried, any goods consigned to or from an enemy or destined for or coming from enemy territory, or

(ii) paid or transmitted any money, negotiable instrument or security for money, to or for the benefit of an enemy or to a place in enemy territory or

(iii) performed any obligation to, discharged any obligation of an enemy, whether the obligation was undertaken before or after the commencement of the Ordinance,

Provided that a person shall not be deemed to have traded with the enemy by reason only that he has—

(a) done anything under an authority given generally or specially by, or by any person authorised in that behalf by the Central Government; or

1 Substituted by D. C. Dept notification No, 498-OR/40 dated the 23rd April, 1940 for the words, " in, or under the laws of a state at war with His Majesty "

2 Substituted by D. Dept. notification No 5 D C (39)/43 dated the 7th August 1943 for the words " corporate or incorporate "

3 Inserted by D C. Dept. notification No 795-OR/41 dated the 31st May 1941.

(b) received payment from an enemy of a sum of money due in respect of a transaction under which all obligation on the part of the person receiving payment *had already been performed when payment was received and had been performed at a time when the person from whom the payment was received was not an enemy.*<sup>1</sup>

(2) Any reference in this rule to an enemy shall be construed as including a reference to a person acting on behalf of an enemy

(3) Any person who trades with the enemy shall be punishable with imprisonment for a term which may extend to seven years or with fine or with both<sup>2</sup>

<sup>3</sup>(4) "In any proceedings for an offence of trading with the enemy, the fact that any document has been despatched addressed to a person in enemy territory shall, unless the contrary is proved, be evidence, as against any person who was a party to the despatch of the document, that the person to whom the document was despatched was an enemy"

*Notes* —In exercise of the powers conferred by clause (a) of the provision to sub-rule (1) of rule 98 of the Defence of India Rules the Central Government has permitted a relative or representative in India of any person other than an enemy subject resident in an enemy territory to pay any premium on an insurance policy issued to such person by any insurance company incorporated or registered in India, as and when the premium falls due Vide Department of Commerce Notification No. 102 (11)—E T. (B) 42 dated 19th September, 1942

99. No transaction which constitutes an offence of trading with the enemy shall, except to such extent

Control of rights etc., in respect of trading with the enemy as the Central Government may by general or special order regulate, be effective so as to confer any rights or remedies on the parties to such transaction or on any persons claiming under them.

1 Substituted by D C Dept, notification No. 1431-OR/42 dated the 6th June, 1942, for the the words, "had been performed before the commencement of the ordinance"

2 Substituted by D C Dept. notification No. 701-OR/41, dated the 15th February, 1941, for the words, "and shall also be liable to fine"

3 Inserted by D Dept notification No 715-OR/41, dated the 31st May, 1941.

**100.** The Central Government may, either generally or for any particular area, appoint one or more **Power to appoint Controllers etc of Enemy trading,** Controllers, Deputy Controllers and Inspectors of Enemy Trading, for securing compliance with the provisions of this part, and may by general or special order provide for the distribution and allocation of the work to be performed by them under these rules "

**100 A** If a Controller, or Deputy Controller of enemy Trading **Powers of Controllers etc. of enemy Trading.** has reasonable cause to believe that an offence punishable under rule 98 has been, or is likely to be committed, he may—

(a) inspect or cause to be inspected any books or document belonging to, or under the control of any person

(b) Order any person to give such information in his possession with respect to any business carried on by that or any other person as the Controller or Deputy Controller as the case may be may demand, and for the purposes aforesaid, may—

(i) enter and search, or authorise a police officer not below the rank of Sub-Inspector to enter and search, any premises used for the purposes of the said business,

(ii) summon any person, examine him on oath, reduce his answers to writing and require him to sign the writing, and

(iii) if any person so summoned fails to appear at the time appointed, cause him to be apprehended by a police officer and brought before him for examination

(2) A Controller, or Deputy Controller, of Enemy Trading may by order in writing delegate his powers in any particular case to an Inspector of Enemy Trading

**[101** If in order to secure compliance with the provisions of this Part the Central Government considers **Supervision for suspected business** it expedient so to do, it may by order direct that the business of any person (hereinafter referred to as the suspected person) shall be subject to supervision

1. Substituted by D C Dept notification No 493-OR/40, dated the 1st June 1940 for the original rule 100

2 Rules 101 and 101A were substituted by *ibid*, No 488-OR/40, dated the 1st June 1940, for rule 101 which had been substituted by D C Dept notification No- 239-OR/39, dated the 29th September 1939, for the original rule 101.

and, thereupon a Controller of Enemy Trading and any person authorised by a Controller in this behalf shall have in relation to that business—

(a) all the powers mentioned in rule 100A,

(b) the power to prohibit or regulate by means of written instructions to the suspected person or his agents or employees any transactions or class of transactions of that person, and

(c) such other powers as may from time to time be conferred on him by the Central Government ]

<sup>1</sup>[101A. If any person contravenes any order lawfully given

by any Controller, Deputy Controller, or Inspector, of Enemy Trading, or any person authorised by a Controller under rule 101 that person shall be punishable with imprisonment for a term which may extend to six months <sup>2</sup>[or with fine or with both].

Penalty or failure to comply with orders of Controllers etc.

102. If any person with intent to evade the provisions of this Part conceals, destroys, mutilates, or defaces

Penalty for concealment, destruction etc of books or documents

any book or other document, that person shall be punishable with imprisonment for a term which may extend to five years <sup>2</sup>[or with fine or with both,

## PART XVI

### CONTROL OF ENEMY FIRMS.

103. In this Part—

Definitions

(1) "enemy subject" means—

"Enemy subject" (a) any individual who possesses the nationality of a State at war with His Majesty, or having possessed such nationality at any time has lost it without acquiring another nationality, or

(b) any body or persons constituted or incorporated in or under the laws of such State

<sup>1</sup> Rules 101 and 101 A were substituted by *ibid*, No 486-OR/40 dated the 1st June 1940, for rule 101 which had been substituted by D. C. Dept notification No 239-OR/39, dated the 29th September 1939 for, the original rule 101

<sup>2</sup> Substituted by D C Dept notification No 701-OR/41 dated the 15th February 1941. for the words "and shall also be liable to fine."



(2) "enemy firm" means

"Enemy firm" (a) any enemy subject who is, or at any time subsequent to the 2nd September 1939, was carrying on any business in British India, or,

(b), any firm, whether constituted in British India or not, of which any member or officer is, or at any time subsequent to the 2nd September 1939, was an enemy subject, and which is, or at any time subsequent to the 2nd September 1939, was carrying on business in British India, or

(c) any company, whether incorporated in British India, or not, of which any officer is or at any any time subsequent to the 2nd September 1939, was an enemy subject and which is, or at any time subsequent to the 2nd Sept. was carrying on business in British India, or

(d) any person or body of person or body of persons, whether incorporated, or not who or which in the opinion of the Central Government is, or at any time subsequent to the 2nd September 1939 was carrying on business in British India—

(i) under the control whether direct or indirect of any enemy subject, or

(ii) wholly or mainly for the benefit of enemy subjects generally or any class of enemy subjects or any individual enemy subject.

<sup>1</sup>[Provided that in relation to subjects of a State which became or becomes, a State at war with His Majesty later than the 3rd September 1939 all references to the 2nd September 1939, in the above definition shall be read as referring to the date immediately preceding the date on which the said State became or becomes a State at war with His Majesty.]

(3) 'enemy currency' means any such notes or coins as circulate as currency in any enemy territory or any such 'Enemy currency.' other notes or coins as are for the time being declared by an order of the Central Government to be enemy currency ;

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1- Inserted by D C Dept notification No. 498-OR/40 dated, the 27th July 1940.

(4) "enemy property" for the time being belonging to or held or managed on behalf of an [enemy as "Enemy property" defined in rule 97, an enemy subject] or an enemy firm ;

(5) "securities" includes shares stock, bonds, debentures, "Securities" and debenture stock but does not include bills of exchange

104. (1) No person shall, directly or indirectly—

Prohibition of (a) advance money to, or enter into trade with enemy any contract with, an enemy firm ; or firms and purchase (b) pay any sum of money to, or for the of enemy currency benefit of, an enemy firm , or

(c) give any security for the payment of any debt or any other sum of money for the benefit of an enemy firm , or

(d) act on behalf of an enemy firm in drawing, accepting, paying, presenting for acceptance or payment, negotiating or otherwise dealing with any negotiable instrument , or

(e) accept, pay, or otherwise deal with, any negotiable instrument which is held by, or on behalf of, an enemy firm or

(f) enter in any new transaction, or complete any transaction already entered into with an enemy firm in respect of any stocks, shares or other securities , or

(g) make or enter into any new policy or contract of insurance (including re insurance) or accept or give effect to any insurance of any risk arising under a policy or contract of insurance (including re-insurance) made or entered into with, or for the benefit of, an enemy firm , or

(h) supply to or for the use or benefit of, or obtain from, an enemy firm, any goods, wares or merchandise, or trade in or carry any goods, wares or merchandise destined for an enemy firm or

2\* \* \*

1. Substituted by *ibid.*, No 485-OR/40, dated the 1st June 1940, for the words "enemy subject,"

2. Clause (i) omitted by D C Dept notification No 566-OR/40, dated the 14th September 1940.

<sup>1</sup>[(1)] enter into any other commercial or financial obligation or contract with, or for the benefit of an enemy firm.

(2) In any proceeding arising out of a contravention of <sup>2</sup>[clause (e)] of sub-rule (1) it shall be a defence for the accused to prove that at the date of the contravention he had no reasonable ground for believing that the negotiable instrument was held by or on behalf of an enemy firm.

<sup>3</sup>[(2A) No person shall directly or indirectly, purchase enemy currency ]

(3) Nothing in this rule shall be deemed to prohibit anything expressly permitted by or under the authority of His Majesty or the Central Government.

(4) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to seven years <sup>4</sup>[or with fine or with both].

105. The Central Government may, either generally or for any particular area, appoint one or more <sup>Power to appoint</sup> controllers, etc., of <sup>any particular area, appoint one or more</sup> Controllers], Deputy Controllers and Inspectors of Enemy Firms, for securing compliance with the provisions of this part, and may, by general or special order, provide for the distribution and allocation of the work to be performed by them under these Rules

106. If a Controller, Deputy Controller or Inspector, of <sup>Powers of Cont-</sup> Enemy Firms has reasonable cause to believe <sup>rollers etc of</sup> that an offence punishable under rule 104 <sup>enemy firms</sup> has been, or is likely to be committed, he may—

(a) inspect or cause to be inspected any books or documents

1 Clause (j) re-lettered as clause (i) by *ibid*

2 Substituted by *ibid*, for the word, letter and brackets clause (f)

3. Inserted by D.C. Dept notification No. 566-OR/40, dated the 14th Sep 1940.

4 Substituted by D.C. Dept notification No 701-OR/41, dated the 15th Feb 1941, for the words "and shall also be liable to fine",

5 Substituted by *ibid* No 361 OR/40, dated the 4th March 1940; for the word "Controller".

belonging to, or under the control of any person,

(b) order any person to give such information in his possession with respect to any business carried on by that or any other person as the Controller, Deputy Controller or Inspector, as the case may be, may demand,

and for the purposes aforesaid, may

(i) enter on any premises used for the purposes of the business

(ii) summon any person, examine him on oath, reduce his answer to writing and require him to sign the writing,

(iii) if any person so summoned fails to appear at the time appointed, cause him to be apprehended by a police officer and brought before him for examination.

<sup>1</sup>[107. If it appears to a Controller of Enemy Firms that it is expedient for securing compliance with the provisions of this Part that any business should be subject to supervision, he may by order in writing direct that the business shall be subject to supervision, and thereupon any Controller, Deputy Controller or Inspector of Enemy Firms may for the purposes of such supervision exercise all or any of the powers mentioned in rule 106, and such other powers as may from time to time be conferred on him by the Central Government.]

<sup>1</sup>[107A. (1) If it appears to a Controller of Enemy Firms that it is expedient for securing compliance with the provisions of this Part that the business of a person or body of persons suspected by him to be an enemy firm should be subject to supervision, he may, pending a decision by the Central Government in the matter, by order in writing direct that the business shall be subject to supervision for a period which shall not, without the previous sanction of the Central Government, exceed one

<sup>1</sup> Rules 107 and 107A substituted by DC Dept notification No. 541-OR/40, dated the 10th August 1940, for the original rule 107.

month, and, thereupon, any Controller, Deputy Controller or Inspector, of Enemy Firms may—

(a) exercise, for the purposes of such supervision, all or any of the powers mentioned in rule 106 ;

(b) by order in writing cancel any transaction of the firm which, in his opinion, is injurious to the public interest or is intended to evade the provisions of this Part ;

(c) authorise the business of the firm to be carried on under such management as may be approved by him or subject to such conditions as he may deem fit to impose ,

(d) himself carry on the business of the firm, if, in his opinion, no suitable management is available.

(2) ' Where a business is subjected to supervision under sub-rule (1), the Central Government may direct the Controller to recover from the assets of the firm concerned such fee, not exceeding the cost of supervision as the Central Government may deem fit to impose ]

**108** If any person contravenes any order lawfully given by any Controller, Deputy Controller, or Inspector, of Enemy Firms that person shall be punishable with imprisonment for a term which may extend to six months <sup>1</sup>[or with fine or with both].

Penalty for failure to comply with orders of Controller, etc

**109** If any person with intent to evade the provisions of this Part conceals, destroys, mutilates or defaces any books or other document which a Controller, Deputy Controller or Inspector, of Enemy Firms is empowered under rule 106 or rule 107 to inspect, that person shall be punishable with imprisonment for a term which may extend to five years <sup>1</sup>[or with fine or with both ]

Penalty for concealment, destruction, etc., of books or documents

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<sup>1</sup> Substituted by *ibid* No 701-OR/41, dated the 15th Feb 1941, for the words and shall also be liable to fine,"

110. Where it appears to the Central Government that a contract <sup>1</sup>[entered into, whether before or after the commencement of the Ordinance, with a person or body of persons who at the time of such contract was, or subsequent to such contract became, an enemy as defined in rule 97 or an enemy subject or an enemy firm], is injurious to the public interest, or was entered into with a view to evade the provisions of this Part, the Central Government may by order cancel or determine such contract either unconditionally or upon such conditions as it thinks fit.

111 (1) Where it appears to the Central Government that a transfer of property moveable or immovable to or by <sup>2</sup>[made, whether before or after the commencement of the Ordinance, to or by a person or body of persons who at the time of such transfer was, or subsequent to such transfer became, an enemy as defined in rule 97 or an enemy subject or an enemy firm], is injurious to the public interest or was made with a view to evade the provisions of this Part, the Central Government may, by order, declare such transfer, and any subsequent transfer or sub-transfer of the same property or part thereof, to be void, either in whole or in part, or may impose such conditions on the transferee as it thinks fit.

(2) On the making of an order under sub-rule (1) declaring any transfer, subsequent transfer or sub-transfer of any property to be void, that property shall, with effect from the date of the order, be deemed to be revested in the original transferor

112 (1) If any securities are transferred by, or allotted or transferred to, an enemy firm, then, except with the sanction of the Central Government, the transferee or allottee shall not by virtue of the transfer or allotment have any rights

1 Substituted by *ibid*, No 765-OR/41 dated the 17th May 1941 for the words "entered into with an enemy firm whether before or after the commencement of the Ordinance".

2 Substituted by *ibid* No 765-OR/41, dated the 5th April 1941 for the words "made to, or by, an enemy firm, whether before or after the commencement of the Ordinance".

or remedies in respect of the securities, and no body corporate by which the securities were issued, or are managed, shall take cognisance of, or otherwise act upon, any such transfer except under the written authority of the Central Government

(2) No share warrants, stock certificates or bonds shall be issued, payable to bearer, in respect of securities registered or inscribed in the name of an enemy firm or of a person acting, on behalf, or for the benefit, of an enemy firm.

(3) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to six months <sup>1</sup>[or with fine or with both].

113. (1) No transfer of a negotiable instrument or an actionable claim by or on behalf of an enemy firm nor any subsequent transfer thereof shall except with the sanction of Central Government, be effective so as to confer any rights or remedies in respect of the negotiable instrument or, as the case may be, the actionable claim

Transfer of negotiable instruments and actionable claims by enemy firms.

(2) If any person by payment or otherwise purports to discharge any liability from which he is relieved by sub-rule (1), knowing the facts by virtue of which he is so relieved, he shall be punishable with imprisonment for a term which may extend to six months <sup>1</sup>[or with fine or with both],

Provided that in any proceedings in pursuance of this sub-rule it shall be a defence for the accused to prove that at the time when he purposed to discharge the liability in question he had reasonable grounds for believing that the liability was enforceable against him by order of a competent court, not being a court in India or in a State at war with His Majesty, and would be enforced against him by such an order

(3) Where a claim in respect of a negotiable instrument or an actionable claim is made against any person who has reasonable cause to believe that if he satisfied the claim, he would thereby be committing an offence punishable under sub-rule (2) that

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<sup>1</sup> Substituted by D C Dept notification No 701-OR/41, dated the 15th February 1941, for the words "and shall also be liable to fine."

person may pay into a Competent Civil Court any sum which but for the provisions of sub-rule (1) would be due in respect of the claim and thereupon the payment shall for all purposes be a good discharge to that person

<sup>1</sup>[113A (1) Where it appears to the Central Government that the control or management of an enemy firm has been, or is likely to be, so affected by the state of war as to prejudice the effective continuance of its trade or business, and that it is in the public interest that the trade or business should continue to be carried on, the Central Government may by order authorise a person to carry on the trade or business in such manner and to such extent as may be prescribed.

(2) While a person authorised under sub-rule (1) is carrying on the trade or business of an enemy firm,—

(a) such person shall be deemed to be acting as the agent of the firm <sup>2</sup>[and, subject only to such restrictions as the Central Government may impose, shall have in relation to the management of the affairs of the firm all such powers and authority as the firm itself would have if it were not an enemy firm] <sup>3</sup>[provided that any person having any commercial, financial or other intercourse or dealings with such person while so acting, shall not, merely by reason of intercourse or dealings, be deemed to have contravened the provisions of rule 98 or rule 104 ]

(b) such person shall be entitled to the management of the affairs of the firm to the exclusion of any other person acting or purporting to act on behalf of the firm, and for the purposes of such management shall be entitled to employ such staff or other agency as he thinks fit ,

(c) such person shall not, in respect of such matters relating to the said management as may be specified by order of the Central Government, be bound by any obligation or limitation imposed on him as agent of the firm by or under any law,

1. Inserted by D C Dept notification No 288-OR/39, dated the 25th November 1939

2. Inserted by D C Dept notification No 569-OR/40, dated the 21st Sept. 1940.



instrument or contract ,

(d) such person shall be entitled to retain out of the assets of the firm all costs, charges and expenses of, or incidental to, the said management, and such remuneration as may be prescribed , and

(e) the firm shall not have the right to control the carrying on of the trade or business.

(3) No person authorised under sub-rule (1) to carry on the trade or business of an enemy firm shall be personally liable for acts done by him in good faith in the course of management of such trade or business.

<sup>1</sup>[ (4) The provisions of this rule shall apply also in relation to a body of persons, whether incorporate or unincorporate, which is an enemy as defined in rule 97 and which is, or at any time subsequent to the 2nd September 1939, was carrying on business in British India as they apply in relation to an enemy firm ]

114 (1) With a view to preventing the payment of moneys to an enemy firm <sup>2</sup>[ \* \* \* \* ], and preserving Collection of debts of enemy firms and custody of property enemy property in contemplation of arrangements to be made at the conclusion of peace, the Central Government may appoint <sup>3</sup>[a Custodian of Enemy Property for British India and one or more Deputy Custodians and Assistant Custodians of Enemy Property for such local areas as may be prescribed] and may by order—

(a) require the payment to the prescribed custodian of money which would but for these rules be payable to or for the benefit

1 Inserted by D C Dept. notification No 288-OR/39, dated the 5th January 1940

2, The words "or a person who is an enemy as defined in rule 97 "which were inserted by D C, Dept notification No 485-OR/40 dated the 1st June 1940 were omitted by D C Dept notification No 845-OR/41 dated the 7th June 1941

3. Substituted by D C Dept notification No 241-OR/39, dated the 3rd October 1939 for the words "one or more Custodians of Enemy Property."

officer thereof except with the consent in writing of the custodian.].

(4) If any person pays any debt or deals with any property to which any order under sub-rule (1) applies otherwise than in accordance with the provisions of the order, he shall be punishable with imprisonment for a term which may extend to six months <sup>1</sup>[or with fine or with both] and the payment or dealing shall be void.

(5) If any person without reasonable cause fails to produce or furnish in accordance with the requirements of an order under sub-rule (1) any document or information which he is required under the order to produce or furnish, he shall be punishable with imprisonment for a term which may extend to six months <sup>1</sup>[or with fine or with both]

<sup>1</sup>[114A. (1) In this rule "enemy" means any person or body Power to control of persons who is for the time being an and wind up enemy as defined in rule 97. certain business

(2) Where any business is being carried on in British India by, or on behalf of or under the direction of, persons all or any of whom are enemies or enemy subjects or appear to the Central Government to be associated with enemies, the Central Government may if it thinks it expedient so to do, make—

(a) an order (hereafter in this rule referred to as a "restriction order") prohibiting the carrying on the business either absolutely or except for such purposes and subject to such conditions as may be specified in the order, or

(b) an order (hereafter in this rule referred to as a "winding up order") requiring the business to be wound up ;  
and the making of a restriction order as respects any business

1. Substituted by D C Dept. notification No 701-OR/40, dated the 15th February 1941, for the words "and shall also be liable to fine".

2. Substituted by D.C. Dept. notification No 797-OR/41, dated the 3rd May 1941, for the original rule 114A, which was inserted by D C. Dept notification No. 406 OR/49, dated the 11th April 1940.

shall not prejudice the power of the Central Government, if it thinks it expedient so to do, at any subsequent date to make a winding up order as respects that business

(3) Where an order under sub-rule (2) is made as respects any business, the Central Government may, by that or a subsequent order, appoint a Supervisor to control and supervise the carrying out of the order, and, in the case of a winding up order to conduct the winding up of the business and may confer on the supervisor any such powers in relation to the business as are exercisable by a liquidator in the voluntary winding up of a company (including power in the name of the person carrying on the business or in his own name, and by deed or otherwise, to convey or transfer any property, and power to apply to the court to determine any question arising in the carrying out of the order), and may by the order confer on the Supervisor such other powers as the Central Government thinks necessary or convenient for the purpose of giving full effect to the order.

(4) Where a restriction order or a winding up order is made as respects any business, the distribution of any assets of the business which are distributed while the order is in force shall be subject to the same rules as to preferential payments either applicable to the distribution of the assets of a company which is being wound up, and the said assets of the business shall, so far as they are available for discharging unsecured debts, be applied in discharging unsecured debts due to creditors of the business who are not enemies in priority to unsecured debts due to any other creditors and any balance, after providing for the discharge of all liabilities of the business, shall be distributed among the persons interested in the business in such manner as the Central Government may direct :

Provided that the provisions of this sub-rule shall, in their application to the distribution of any money or other property which would, in accordance with those provisions, fall to be paid or transferred to an enemy, whether as a creditor or otherwise, have effect subject to the provisions of rule 114 and of any order made under that rule.

(5) Where any business for which a Supervisor has been

appointed under this rule has assets in enemy territory the Supervisor shall, if in his opinion it is practicable so to do, cause an estimate to be prepared—

(a) of the value of those assets,

(b) of the amount of any liabilities of the business to creditors, whether secured or unsecured, who are enemies,

(c) of the amount of the claims of persons who are enemies to participate, otherwise than as creditors of the business, in any distribution of assets of the business made while an order under sub-rule (2) is in force as respects the business,

and, where such an estimate is made, the said liabilities and claims shall, for the purposes of this rule, be deemed, to have been satisfied out of the said assets of the business in enemy territory, or to have been satisfied thereout so far as those assets will go, and only the balance (if any) shall rank for satisfaction out of the other assets of the business.

(6) Where an estimate has been prepared under sub-rule (5), a certificate of the Supervisor as to the value or amount of any assets, claims or liabilities to which the estimate relates shall be conclusive for the purpose of determining the amount of the assets of the business available for discharging the other liabilities of the business and for distribution amongst other persons claiming to be interested in the business

Provided that nothing in this sub-rule shall affect the rights of creditors of, and other persons interested in, the business against the assets of the business in enemy territory.

(7) The Central Government may, on an application made by a supervisor appointed under this rule, after considering the application and any objections which may be made by any person who appears to the Central Government to be interested, by order grant the supervisor a release, and an order of the Central Government made under this sub-rule shall, discharge the Supervisor from all liabilities in respect of any act done or default made by him in the exercise and performance of his powers and duties as Supervisor, but any such order may be revoked by the Central Government on proof that it was obtained by fraud or by suppression or concealment of any material fact

(8) Where an order under sub-rule (2) has been made as respects a business carried on by any individuals or by a Company, no insolvency petition against the individuals, or petition for the winding up of the Company, shall be presented, or resolution for the winding up of the Company passed, or steps for the enforcement of the rights of any creditors of the individuals or Company taken, without the consent of the Central Government, but where the business is carried on by a Company, the Central Government may present a petition for the winding up of the Company by the Court, and the making of an order under sub-rule (2) shall be a ground on which the Company may be wound up by the Court

(9) Where an order is made under this rule appointing a Supervisor, by any business, any remuneration of, and any costs, charges and expenses incurred by, the Supervisor, and any other costs, charges and expenses incurred in connection with the control and supervision of the carrying out of the order, shall to such amount as may be certified by the Central Government, be defrayed out of the assets of the business, and as from the date of the certificate, be charged on those assets in priority to any other charges thereon.

(10) If any person contravenes the provisions of any order made under sub-rule (2) he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

*Notes* —A fresh order under this rule is not necessary in respect of each country which becomes an enemy of His Majesty within the meaning of rule 97. Therefore on the outbreak of war with Japan on 7th December, 1941 the property of a Japanese firm in India became vested in the Custodian of Enemy Property who had all the powers to deal with it conferred on him by the Enemy Property (Custody and Registration) Order, 1939, and no order vesting the property in him is necessary. A. I. R. 1944 Sind 51

Right to sue for damages possessed by an enemy firm is property and hence when the property of the enemy company vests in the Custodian of Enemy Property, the right to sue for damages also vests in him—*ibid.*

Agent or attorney can be appointed by the Custodian of Enemy property and such power is contained in the Government of India Notification dated 25th June, 1940.—*ibid.*

## PART XVII

### MISCELLANEOUS PROVISIONS.

**115. (1)** If any person finds any article as to which he has **Derelict article.** reasonable cause to believe that it has been lost or abandoned, and that, prior to its loss or abandonment, it was used or intended to be used for the purposes of any armed force or was in the possession of a person who was serving with an armed force, the person so finding the article —

(a) shall report the nature and situation thereof, or, if the article is a document, cause it to be delivered, to some member of His Majesty's forces on duty in the neighbourhood or to the officer in charge of a police station in the neighbourhood, or if the article is found outside British India, shall take such steps as are practicable to secure that the nature and situation thereof are reported, or if the article is a document, that it is delivered as soon as may be, to some person in His Majesty's service; and

(b) shall not, save as aforesaid, remove or tamper with the article except with the permission of the Central Government.

(2) The Central Government may by notified order direct that the obligations and restrictions imposed by sub-rule (1) shall not apply in relation to any such description of articles as may be specified therein or as may be specified by a prescribed authority or person.

(3) If any person contravenes any of the provisions of sub-rule (1) he shall be punishable with imprisonment for a term which may extend to six months <sup>1</sup>[or with fine or with both]

**116 (1)** Without prejudice to any special provisions contained in these Rules, the Central Government or the Provincial Government may by order require any person to furnish or

<sup>1</sup> Substituted by D. C. Dept, notification No 701/41, dated the 15th February 1941, for the words, "and shall also be liable to fine,"

produce to any specified authority or person any such information or article in his possession as may be specified in the order, being information or an article which that Government considers it necessary or expedient in the interest of the defence of British India, the efficient prosecution of the war or the public safety or interest to obtain or examine

(2) If any person fails to furnish or produce any information or article in compliance with an order made under sub-rule (1), he shall be punishable with imprisonment for a term which may extend to three years <sup>1</sup>[or with fine or with both],

117 If any person—

False statement (2) when required by or under any of these Rules to make any statement or furnish any information, makes any statement or furnishes any information, which he knows or has reasonable cause to believe to be false, or not true, in any material particular, or

(2) makes any such statement as aforesaid in any account, declaration, estimate, return or other document which he is required by or under any of these Rules to furnish, he shall be punishable with imprisonment for a term which may extend to three years *or with fine or with both* <sup>1</sup>

117A (1) Where any person is required by or under any of these Rules to make any statement or furnish

Power to require  
production of  
book, etc

any information to any authority, that authority, may by order, with a view to veri-

ifying the statement made or the information furnished by such person, further require him to produce any books, accounts or other documents relating thereto which may be in his possession or under his control.

(2) If any person fails to produce any books, accounts or other documents in compliance with an order made under sub-rule (1),

<sup>1</sup> Substituted by D C Dept. notification No 701-OR/41, dated the 15th February 1941, for the words 'and shall also be liable to fine'

<sup>2</sup> Inserted by D C Dept. notification No 532-OR/41, the 21st September 1940

he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.<sup>1</sup>

118. (1) No person who obtains any information by virtue of these Rules shall, otherwise than in connection with the execution of the provisions of these Rules or of any order made in pursuance thereof, disclose that information to any other person except with permission granted by or on behalf of Government.

**Prohibition against disclosing information.**

(2) If any person contravenes the provisions of sub-rule (1), he shall be punishable with imprisonment for a term which may extend to two years or with fine or with both<sup>1</sup>

119. (1) Save as otherwise expressly provided in these Rules, every authority, officer or person who makes any order *in writing*<sup>2</sup> in pursuance of any of these Rules shall, in the case of an order of a general nature or affecting a class of persons, publish,<sup>3</sup> notice of such order in such manner as may, in the opinion of such authority, officer or person, be best adopted for informing persons whom the order concerns *in the case of an order affecting an individual corporation or firm serve or cause the order to be served in the manner provided for the service of a summons in rule (2) of Order XXIX or rule 3 of Order XXX as the case may be in the First Schedule to the Code of Civil Procedure, 1908 (V of 1908), and in the case of an order affecting an individual person (not being a corporation or firm ; serve*<sup>4</sup> or cause the order to served on that person<sup>5</sup>

**Publication affixation and defacement of notices**

1. Substituted by D. C. Dept. notification No 701-OR/41, dated the 15th Feb. 1941, for the words "and shall be liable to fine,"

2. Inserted by D. C. Dept. notification No 1020-OR/1/41, dated the 10th January 1942.

3. Substituted by D. C. Dept. notification No. 677-OR/41, dated the 1st February 1941, for the words "shall publish".

4. Substituted by D. Dept notification No 5 D C. (36)/43, dated 21st 1943 for the words "and in the case of an order affecting an individual persons", which were inserted by D. C. Dept notification No. 677-OR/41, dated the 1st February 1941.

5. Substituted by D. C. Dept. notification No 1020-OR/1/41, dated the 10th January 1942 for the words, "served on that person in such manner as such authority, officer or person thinks fit,"



- (i) personally, by delivering or tendering to him the order, or
- (ii) by post, or

(iii) Where the person cannot be found, by having an authentic copy of the order with some adult male member of his family or by affixing such copy to some conspicuous part of the premises in which he is known to have last resided or carried on business or personally worked for gain,<sup>1</sup>

and thereupon, the persons, corporation, firm<sup>2</sup> or person concerned shall be deemed to have been duly informed of the order.

<sup>3</sup>“(2) Any police officer, and any other person authorised by Government in this behalf may, for any purpose connected with the defence of British India, the public safety, the maintenance of public order, the efficient prosecution of the war, maintaining supplies and services essential to the life of the community or the administration of these rules affix any notice to, or cause any notice to be displayed on, any premises, vehicle or vessel, and may for the purpose of exercising the power conferred by this rule, enter any premises, vehicle or vessel at any time

(3) Any person authorised by Government in this behalf may, for any purpose mentioned in sub-rule (2), by order direct the owner or other person in possession or control of any premises, vehicle or vessel to display, any notice on, or in, the premises, vehicle or vessel in such manner as may be specified in the order.

(4) If any person without lawful authority removes, alters, defaces, obliterates or in any way tempers with any notice affixed or displayed in pursuance of these Rules, or contravenes any order under sub-rule (3), he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

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1 Substituted by D C Dept notification No, 1292-OR/42 dated the 28th March 1942, for the words, "house where he ordinarily resides"

2. Inserted by D. Dept notification No 5 D C. (36)/43, dated the 21st August 1943

3. Substituted by D.C. Dept. notification No 1245-OR/42, dated the 21st February 1942, for the original sub-rules (2) and (3) of this rule.

*Notes.*—Any order passed by the District Magistrate under R. 81 cannot bind the person concerned unless it is published in accordance with this rule, A.I.R, 1944 Nagpur, 40. The burden of proving publication of the notice of that order in the manner contemplated by the officer making the order lies on the prosecution. In other words, it must be shown that the officer making the order himself prescribed the manner of its publication and that the publication was made in that manner. The obligation laid on the officer passing the order is a statutory obligation and it is incumbent on the prosecution to prove that the statutory obligation was duly discharged. The prosecution cannot in such a case merely rely on the presumption of S 114 cl. (e), Evidence Act, for the only reason that the making of the order and the direction to publish notice of it were official acts.—*ibid*

120 If any person voluntarily obstructs, or offers any resistance to, or impedes or otherwise interferes with,—  
Obstructing lawful authorities.

(a) any member of His Majestys' forces acting in the course of his duty as such, or

(b) any authority, officer or person exercising any powers, of performing any duties, conferred or imposed upon it or him by or in pursuance of these Rules, or otherwise discharging any lawful functions in connexion with the defence of British India and the efficient prosecution of the war, or

(c) any person who is carrying out the orders of any such authority, officer or person as aforesaid or who is otherwise acting in accordance with duty in pursuance of the Rules,

he shall be punishable with imprisonment for a term, which may extend to two years or with fine or with both <sup>1</sup>

1. Substituted by D. C. Dept notificat on No. 701-OR-41, dated the 16th February 1941, for the words, "and shall also be liable to fine"

**1120A.** (1) If the authority competent to make appointments in office in connection with the affairs of the Central Government considers it necessary or expedient to make provision under this rule for an automatic succession to that office, that authority may maintain at such place or places as it thinks fit a list (hereinafter referred to as the succession list) of persons authorised to assure the duties of the office under this rule,

(2) If the person holding an office in respect of which a succession list is maintained under sub-rule (1) dies or is for any reason unable to perform the duties of the office, the first of the persons named in the succession list who survives and is available shall assume the duties of the office and shall thereupon be deemed, for the purpose of any law for the time being in force including this rule, to have been duly appointed to the office "

**1120-B** (1) In this rule, District Magistrate includes an officer exercising the powers, and performing the duties, of the District Magistrate by virtue of section 11 of the Code of Criminal Procedure, 1898

(2) If in any District an officer serving in connection with the affairs of the Province dies or is for any reason unable to perform the duties of his office and the District Magistrate is satisfied that a reference to the authority competent to make appointments to the office is by reason of Military operations or other special circumstances effecting the Province likely to cause undue delay, the District Magistrate may appoint to the office any person who is already in the service of the Crown and such person shall be deemed, for the purpose of any law for the time being in force, including this rule, to have been duly appointed to the office

Provided that nothing in this rule shall apply to any office in respect of appointments to which special provision is made by or under any section of the Government of India, 1935, other than section 241

14-120C (1) The Central Government or the Provincial Government may, if it considers it necessary

Power to impose civil duties on servants of the Crown.

or expedient so to do for securing the defence of British India, the public safety or the maintenance of public order, or for maintaining supplies and services essential to the life of the community, by general or special order require any person or class of persons in the civil service of the Crown in India to perform such civil duties within the station in which such person or persons are for the time being serving as may be specified in the order

(2) Any person to whom an order made under sub-rule (1) applies shall, notwithstanding that he subsequently ceases to be in the civil service of the Crown in India, continue to perform the duties imposed on him by the order until he is relieved therefrom by competent authority

(3) If any person contravenes the provisions of any order made under this rule, he shall be punishable with imprisonment for a term which may extend to one year, or with fine or with both."

## PART XVIII

### SUPPLEMENTARY AND PROCEDURAL.

121. Any person who attempts to contravene, or abets or attempts to abet, or does any act preparatory

Attempts etc., to contravene the Rules.

to, a contravention of, any of the provisions of these Rules or of any order made thereunder<sup>1</sup> shall be deemed to have contravened that provision, or as the case may be, that order.<sup>1</sup>

*Notes.*—This rule makes punishable the abetment of a particular offence and a person cannot be punished for abetting in general. He has to be charged with the abetment of a particular offence; so that the ordinary rules of joinder must apply to offences punishable under R 121 read with the other provisions of the Defence of India Rules just as in an ordinary charge under Penal Code A.I.R. 1942 Madras 417

1. Inserted by D. C. Dept notification No. 1284-SM/42, dated the 22nd May 1913

2. Inserted by D. Dep. notification No 1812-OR/42, dated the 24th October 1942.

**Scope.**—The commission of an offence ordinarily involves four stages, namely, intention, preparation, attempt and the final act constituting the offence. Intention per se is not punishable at all, Preparation which consists in devising or arranging the means or measures for the commission of an offence is punishable in rare cases, as for example, S 399, I P C Attempt is punishable in large majority of cases while the final act constituting the offence is always punishable. A.I.R. 1941 Lahore 301, A I R. 1942 Allahabad, 121

**Applicability** —The communication of intention by letter to the District Magistrate to shout an anti-war slogan, which undoubtedly is a prejudicial act within the meaning of the Act does not amount to preparation to commit an offence and does not constitute any offence under the Defence of India Rules. Consequently the arrest of the person on receipt of such a letter before he has shouted the slogans is illegal. A I R 1942 Allahabad 121, A.I.R. 1941 Lahore 301. But where the accused organised meetings in which the satyagrahis made speeches, he was held to have committed the offence of abetment. A I.R. 1942 Madras 417. Similarly where the accused thrust into the post-box rags and papers saturated with kerosine which he had in his possession and the accused had also a box of matches wherewith to set those things alight, the case of an attempt to set fire to a post-box must be considered proved. A I R 1943 Sind 87

122 If the person contravening any of the provisions of these Rules, or, of any order made thereunder, is a  
**Offences by corporations** company or other body corporate, every director, manager, secretary or other officer or agent thereof shall, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention

123. Any person who, knowing or having reasonable cause to believe that any other person has contravened  
**Assisting offenders.** any of the provisions of these Rules, or of any order made thereunder,<sup>1</sup> gives that other person any assistance with intent thereby to prevent, hinder or otherwise

1. Inserted by D C Dept notification No 1612-OR/42, dated the 24th Oct. 1942

interfere with his arrest, trial or punishment for the said contravention, shall be deemed to have abetted that contravention.

124. (1) If a District Magistrate, Sub-Divisional Magistrate, Presidency Magistrate or Magistrate of the first class has reason to believe that a contravention of any of these Rules or an offence prejudicial to the efficient prosecution of war, to the defence of British India or to the public safety, has been or is about to be committed in any place, he may by warrant authorise any police officer above the rank of constable—

(a) to enter and search the place in the manner specified in the warrant, and

(b) to seize anything found in or on such place which the police officer has reason to believe, *has been, is being or is intended to be used*<sup>1</sup> for the purposes of or in connection with any such contravention or offence as aforesaid, and,

the provisions of the Code of Criminal Procedure, 1898, shall, so far as they may be applicable, apply to any such search or seizure, as they apply to any search or seizure made under the authority of a warrant issued under section 98 of that Code

(2) Any Magistrate before whom anything seized under sub-rule (1) is conveyed shall forthwith report the fact of such seizure to the Provincial Government and pending the receipt of its orders may detain in custody anything so seized or take such other order for its safe custody as he may think proper.

(3) Anything seized under sub-rule (1) shall be disposed of in such manner as the Provincial Government may direct

<sup>2</sup>[(4) In this rule, and in rule 126, 'place,' includes a house, building, tent, vehicle and aircraft]

125. (1) Any officer of His Majesty's forces engaged in the defence of the coast or any person authorised in this behalf by such officer may stop and search any vessel found within tidal waters or the territorial waters adjacent to British India and seize any

1. Substituted by D. C. Dept notification No. 753-OR/41, dated the 10th May 1941, for the words, "is being used or is intended to be used"

2.—Inserted by D. C. Dept notification No. 753-OR/41, dated 10th May 1941.

thing in such vessel which he has reason to believe has been, is being, or is about to be, used for any purpose prejudicial to the defence of British India or to the efficient prosecution of war

(2) An officer or person who makes or causes to be made any seizure in pursuance of the provisions of sub-rule (1) shall forthwith report the fact of such seizure to the Central Government and, pending the receipt of the orders of the Central Government, may detain in custody anything so seized or take such other order for its safe custody as he may think proper

(3) Anything seized in pursuance of the provisions of sub-rule (1) shall be disposed of in such manner as the Central Government may direct.

(4) Nothing in this rule shall apply to any visit, search, detention or capture made in the exercise of any right under international law, or affect any law relating to Prize or Prize Courts

126 (1) The Central Government or the Provincial Government may by general or special order empower any person to—

(a) stop and search any vessel found in inland water ways or any vehicle<sup>1</sup> (or animal as defined in<sup>2</sup>) sub-rule (1) of rule, 89<sup>1</sup>.

(b) search any place, including any vessel wherever found<sup>3</sup> and seize anything, including a vessel, vehicle or animal<sup>3</sup>, which he has reason to believe has been, is being or is about to be, used for any purpose prejudicial to the efficient prosecution of war<sup>1</sup>, to the defence of British India or to the public safety or interest

(2) Any person empowered under sub-rule (1) shall forthwith report to the Provincial Government in detail any seizure made by him and, pending the receipt of its orders may detain in custody anything so seized or take such other order for safe custody as he may think proper

1- Inserted by D C Dept notification No 753-OR/41 dated the 10th May 1941

2 Substituted by D Dept notification No 5 D C (16)/43, dated the 29th Jan 1944, for the words "or any vehicle as defined in," in clause (a) and "vessel or vehicle" in clause (b) respectively

3 Added by D Dept notification No. 5 D.C (37)/43 dated the 17th July 1943.

(3) Anything seized by a person empowered under sub-rule (1) shall be disposed of in such manner as the Provincial Government may direct.

(4) A person empowered by the Central Government or the Provincial Government under sub-rule (1) may authorise any other person to exercise like powers to his own in the whole or any part of the area in respect of which that Government has empowered him

127 Any member of His Majestys' forces acting in the Entry and inspection of land. course of his duty, as such, and any person authorised by the Central Government or the Provincial Government to act under this rule<sup>1</sup>—

(a) may enter on any land for the purpose of exercising any of the powers conferred in relation to that land by any of these rules ,

(b) may enter and inspect any land for the purpose of determining whether, and, if so in what manner, any of those powers are to be exercised in relation to that land ,

(c) may, for any purpose connected with the defence of British India, the public safety, the efficient prosecution of war, or the maintenance of supplies and services essential to the life of the community, pass with or without animals or vehicles over any land.

*Notes.*—The Central Government was pleased to direct that the powers conferred on it by this rule are also exerciseable by all collectors within the limits of their respective jurisdictions, Vide D. C. Dept. Notification No. 824—O.R /41 dated 4th October, 1940.

128. Any police officer may arrest without warrant any Power to arrest person who is reasonably suspected of having without warrant committed, of committing or of being about to commit a contravention of, any of rules 12, 17, 27, 49, 51, 51A,

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1 Inserted by D C Dept. notification No 902 SM /41, dated the 5th July, 1941.



51B, 52, 58, 57<sup>1</sup>, 59 A, 76 A, 78, 78 A, 79, 80,<sup>2</sup> 81 E, 89, 118, 119 and 120<sup>3</sup>

4[128A. (1) Any police officer may arrest without warrant any person whom he reasonably suspects of being an escaped prisoner of war

(2) Where any person is arrested, under sub-rule (1), the District Superintendent, or in a Presidency-Town the Commissioner of Police shall, in consultation with the officer in charge of the nearest camp for the detention of the prisoners of war,—

(a) take such steps as may be necessary to establish the identity of the arrested person,

(b) upon his being found to be an escaped prisoner of war, arrange to hand him over to a military guard for being taken to the said camp, and

(c) pending such arrangement, detain him in such custody as may appear expedient

(3) The provisions of the Code of Criminal Procedure 1898, shall not apply in relation to any arrest made under sub-rule (1) ]

129. (1) Any police officer, \* \* \* or any other officer of Government empowered in this behalf by general or special order of the Central Government<sup>6</sup>[or of the Provincial Government] may arrest without warrant any person whom he reasonably suspects of having acted, of acting, or being about to act,—

(a) with intent to assist any State at war with His Majesty,

1 Substituted by D C Dept, notification No 877-S M/41, dated the 20th September 1941, for the words figures and letters, " 12, 27, 49, 51, 52, 53, 57, 119 and 120 "

2 Inserted by D C Dept notification No 872-S M/41, dated the 2nd Jan 1942

3 Inserted by D Dept notification No 1621-3M/42, dated the 14th No. 1942

4 Inserted by D C Dept notification No 1332-OR/42, dated the 2nd May 1942

5 The words "not below the rank of head constable" omitted by D C Dept notification No 929-S M/41 dated the 18th May 1942

6 Inserted by D.C. Dept notification No 909-OR/41, dated the 11th Oct. 1941.

or in a manner prejudicial to the public safety or to the efficient prosecution of war,

(b) in any area in which the Provincial Government has, by notification, declared that this clause shall become operative, in a manner calculated to promote, or to assist the promotion of, rebellion against the authority of Government,

(c) in any prohibited place, <sup>1</sup>[protected place or protected area, or any other place or area as respects which an order has been made under rule 9] in a manner prejudicial—

(i) to the safety of any such place or area or of any industry, machinery or building in any such place or area;

(ii) to the output or effective control of any such industry or machinery.

(2) Any officer who makes an arrest in pursuance of sub-rule (1) shall forthwith report the fact of such arrest to the Provincial Government, and, pending the receipt of the orders of the Provincial Government, may, subject to the provisions of sub-rule (3), by order in writing, commit any person so arrested to such custody as the Provincial Government may by general or special order specify :

Provided—

(i) that no person shall be detained in custody under this sub-rule for a period exceeding fifteen days without the order of the Provincial Government, and

(ii) that no person shall be detained in custody under this sub-rule for a period exceeding two months.

(3) If any person arrested under clause (c) of sub-rule (1) is prepared to furnish security, the officer who has arrested him may instead of committing him to custody, release him on his executing a bond with or without sureties that he will not, pending the receipt of the orders of the Provincial Government, enter, reside or remain in the areas in respect of which he became liable to arrest

1 Substituted by D C Dept notification No 305 OR/39, dated the 15th Feb, 1941, for the words, brackets, letter and figures "protected place, protected area or any such place or area as is referred to in clause (c) of sub-rule (1) of rule 9."

(4) On receipt made under the provisions of sub-rule (2), the Provincial Government may, in addition to making such order, subject to the second provision to sub-rule (2), as may appear to be necessary for the temporary custody of any person arrested under this rule, make, in exercise of any power conferred upon it by any law for the time being in force, such final order as to his detention, release, residence or any other matter concerning him as may appear to the said Government in the circumstances of the case to be reasonable or necessary

(5) Subject to the condition that nothing in this sub-rule shall be deemed to extend the limits of detention prescribed in the first and second Provisions to sub-rule (2), the Provincial Government may direct that any person arrested under clause (a) or clause (b) of sub-rule (1) shall be removed to any other province of which the Provincial Government (hereinafter described as the second Government) has given its consent in this behalf, and thereupon such person shall be removed and the second Government shall take in respect of such person such action as may be lawful in like manner as if such person had been arrested within its province

(6) When security has been taken in pursuance of the provisions of sub-rule (3), the bond shall be deemed to be a bond taken under the Code of Criminal Procedure 1898, by the Chief Presidency Magistrate or District Magistrate having jurisdiction in the area in respect of which the said security has been taken and the provisions of section 514 of the said Code shall apply accordingly.

*Note* —This rule is provided to enable police officers of Government to detain dangerous men immediately and to hold them in detention until a Provincial Government or the Central Government issued orders of detention under Rule 26 of the Rules. Rule 26 and 129 give power to arrest and detain without specifying any charge and obviously confers powers which should be carefully exercised. A I R. 1943 Lahore 329 (F. B) Where a newspaper reporter was present at a

press conference convened by the Deputy Commissioner misrepresented in the newspaper the remarks made by the Deputy Commissioner concerning the A. R. P. organisation, and the reporter was arrested under this rule as a punishment and as a warning to others it was held that the misrepresenting of the Deputy Commissioner might amount to some offence but such conduct could not afford ground for arrest and detention under this rule and his arrest was illegal.—*ibid.*

130 (1) No Court or Tribunal shall take cognizance of any alleged contravention of the Rules, or of any  
Cognizance of con- order made there under,<sup>1</sup> report in writing of  
travention of the the facts constituting such contravention,  
Rule, etc. made by a public servant.

(2) Proceedings in respect of contravention of the provisions of these rules or any order made there under,<sup>1</sup> alleged to have committed by any person may be taken before the appropriate court having jurisdiction in the place where that person is for the time being.

(3) Notwithstanding any thing contained in Schedule II to the Code of Criminal Procedure, 1898, a contravention of any of the following rules, namely, 8A, 35, 98 and 104<sup>2</sup>, shall be triable by a Court of Sessions, a Presidency Magistrate or a Magistrate of the first class (and a contravention of rule 56 or under sub-rule (2) of rule 87<sup>3</sup> shall be triable by a Court of Sessions a Presidency Magistrate or a Magistrate of the first or second class).<sup>4</sup>

<sup>1</sup> Inserted by D C. Dept. notification No. 5 D C-(52)/43 dated the 11th December 1943

<sup>2</sup> Substituted by D C Dept notification No. 944-OR/40, dated the 9th August 1941 for the words letters and figures 'rule 8A or rule 35'

<sup>3</sup> Inserted by D Dept notification No. 5 D C-(48)OR<sup>2</sup>42, dated the 4th March 1944

<sup>4</sup> Inserted by Defence Dept Notification No. 5 D, C (37)/43 dated 11th Jan 1943.

“(4) Any Magistrate or bench of Magistrates empowered for the time being to try in a summary way the offences specified in sub-section (1) of section 260 of the Code of Criminal Procedure, 1898, may if such magistrate or bench of magistrates thinks fit on application in this behalf being made by the prosecution, try a contravention of any such provision of these Rules *or any order made thereunder*<sup>1</sup> as the Central Government may by notified order specify in this behalf in accordance with the provisions contained in sections 262 to 265 of the said Code.”

*Notes.*—Vide Notification No 5 D C. (18)/43-1 dated 11th March, 1944 the Central Government in pursuance of sub-rule (4) of this rule has specified all orders which have been or may hereafter be made under sub rule (2) of rule 81, for purposes of sub-rule (4) of this rule.

“130A. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, no person accused or convicted of a contravention of these rules, *or any order made thereunder*<sup>2</sup> shall, if in custody be released on bail or on his own bond, unless—

*Special provision regarding bail.*

“(a) the prosecution has been given an opportunity to oppose the application for such release, and”

(b) where *the prosecution opposes the application, and*<sup>3</sup> the contravention is of any such provision of these rules *or of any order made thereunder*<sup>4</sup> as the Central Government *or the Provincial Government*<sup>5</sup> may by notified order specify in this behalf, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such contravention.

*Notes.*—This rule merely indicates that when a person is

<sup>1</sup> Inserted by Defence Dept Notification No. 5 D.C-(1)/53 dated 30th January 1943.

<sup>2</sup> Inserted by D. C. Dept notification No. 5 D C -(52)/43, dated 11th December 1943.

<sup>3</sup> Inserted by D C. Dept notification No 542-OR/40 dated the 15th Feb 1941.

<sup>4</sup> Substituted by D C Dept notification No. 542-OR/10 dated the 7th June, 1941 for the original clause (a) of rule 130 A

<sup>5</sup> Inserted by D. C. Dept notification No. 542-OR/40 dated the 2nd May 1942.

<sup>6</sup> Inserted by D C Dept notification No 542-OR/40 dated the 21st Jan 1942

accused of an offence under these rules the court may not liberate him on bail pending the trial, except when it has legal ground to believe that he is innocent. It does not depart from the presumption that a person is believed to be innocent unless proved to be guilty and the rule is not ultra vires. The Cr. P. Code however does not apply. A.I.R. 1942 Madras 487. (1941) 2 M.L.J. 1014.

130B. Notwithstanding anything contained in section 32 of Special provisions the Code of Criminal Procedure, 1898, it shall be lawful for any Magistrate of the first class specially empowered by the Provincial Government in this behalf and for any Presidency Magistrate to pass a sentence of fine exceeding one thousand rupees on any person convicted of contravening an order made under rule 56 A or rule 81.

131. No proceedings for a contravention of clause (e) of sub-rule (1) of rule 38 in respect of a prejudicial Special sanction for certain prosecutions report the publication of which is, or which is an incitement to the Commission of, a prejudicial act of the nature described in clause (h) of sub-rule (6) of rule 34 shall be taken in respect of any document circulated by, or under the authority of, a candidate for election to a chamber of the Central or of a Provincial Legislature, save with the written sanction of the Central Government or of the Provincial Government, as the case may be.

132 (1) Any authority, officer or person who is empowered by or in pursuance of the Defence of India Act, 1939, or<sup>1</sup> any of these Rules to make any Power to give effect to rules, orders, etc. order, or to exercise any other power may, in addition to any other action prescribed by or under these Rules take or cause to be taken, such steps and use, or caused to be used, such force as may, in the opinion of such authority, officer or person, be reasonably necessary for securing compliance with, or for preventing or rectifying any contravention of, such order, or for the effective exercise of such power.

(2) Where in respect of any of the provisions of these Rules there is no authority, officer or person empowered to take action

1. Inserted by D. C. Dept notification No 3 D C (54)/44 dated the 22nd Jan. 1944.

under sub-rule (1), the Central or the Provincial Government may take, or cause to be taken, such steps and use, or cause to be used, such force as may in the opinion of that Government be reasonably necessary for securing compliance with, or preventing or rectifying any breach of, such provision

(3) For the avoidance of doubt it is hereby declared that the power to take steps under sub-rule (1) or under sub-rule (2) includes the power to enter upon any land or other property whatsoever.

*Notes.*—An undertaking like an electric supply company which is a going concern cannot be treated as anything but a collection of items of movable and immovable property. Therefore R 75A is not applicable at all to the requisition or acquisition of an undertaking as a going concern such as an electric supply company. Rule 81 coupled with rule, 182 gives every conceivable power to Government to control an undertaking so as to ensure not only the maintenance of supplies and services essential to the life of the community but to safeguard against the danger of sabotage  
A I R 1948 Lah 41.

14133 The Administrator General (Eastern Frontier communications) may, if in his opinion it is necessary or expedient for carrying out his duties as such, exercise any power conferred on any authority by any of these Rules."

**THE DEFENCE OF INDIA (SECOND AMENDMENT)  
ORDINANCE, 1943.**

**Ordinance No. XLIV of 1943.**

An Ordinance further to amend the Defence of India Act, 1939 Whereas an emergency has arisen which makes it necessary further to amend the Defence of India Act 1939, (XXXV of 1939), for the purpose hereinafter appearing ;

Now, therefore, in exercise of the powers conferred by Section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5 C 2), the Governor General is pleased to make and promulgate the following Ordinance —

1. (1) This Ordinance may be called the Defence of India Short title and (Second Amendment) Ordinance, 1943.  
commencement

(2) It shall come into force at once

2. In clause (5) of section 6 of the Defence of India Act, Amendment of (XXXV of 1939)—  
Section 6, Act XXV  
of 1939

(a) for sub-clause (a) the following sub-clause shall be substituted, namely .—

“(a) in section 53, for regulation (2) the following regulation had been substituted, namely” ;—

“(2) Judgement of death shall not be passed on any prisoner unless all the officers present at the court martial; where the number is less than five, and in other cases a majority of not less than two-thirds of the officers present, concur in the sentence.”

(b) in sub-section (2) of Section 57-A, for the word “Commander” the words “substantive or acting commander” had been substituted ;

(c) in Section 58—

(i) in regulations (1) and (16) for the word “five” the word “three”, in regulation (7) for the words, “the president is a captain”, the words “the president is a substantive or acting commander”, in regulation (15) for the word, “four” the word “two;” had been substituted ,

(ii) regulation (8) had been omitted ”, and

(b) existing sub-clause (b) shall be relettered as sub-clause (d).



## ADDENDA

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List of corrections to the Rules made under the Defence of India Act omitted by the printers

Page 99 Rule 45 B—Vide (Defence Department Notification No 5 D C. (2)/43 dated the 26th Feb 1944.

For rule 45 B substitute the following —

“45-B. (1) This rule applies to any of the following under-

takings carried on in India by any person or authority whatsoever (including Government).—

Restriction of publication of information relating to certain undertakings.

(i) Undertakings for the supply of electricity,

(ii) Inland water transport undertakings.

(iii) Port, harbour, dock or pier undertakings

(2) No person shall publish, or cause or allow to be published, in British India the accounts or any copy thereof or extract therefrom, of any undertaking to which this rule applies, or any report or other document, or any copy thereof or extract therefrom, relating to the operation of the undertaking which discloses any information contained in any such accounts or any statistical or other information relating to the progress of the undertaking

(3) Nothing in sub-rule (2) shall, unless the Central Government by general or special order otherwise directs, be deemed—

(a) to relieve any person carrying on an undertaking to which this rule applies from any obligation to furnish to Government or to any Government Authority such accounts, reports or documents, or copies thereof, or extracts therefrom,

(b) to prohibit the publication of such accounts, reports or documents, or copies thereof, or extracts therefrom, to—

(i) Government,

(ii) any Government or local authority,

(iii) the members of a local authority where the undertaking is carried on by the local authority ;

(iv) the Directors or Managing Agents of a Company where the undertaking is carried on by the company ,

(v) the Auditors of the accounts of the undertaking ;

(vi) such other persons, or in such circumstances as may be authorised by the Central Government ;

(c) to apply to the publication by or on behalf of any person carrying on an inland water transport undertaking of any time table relating to such undertaking .

(d) to prohibit inspection of such accounts, reports or documents, or copies thereof, or extracts therefrom, at the offices of the undertaking by any person who but for this rule would have been entitled to obtain, receive or inspect such accounts, reports or documents, or to receive information as to the contents thereof, and who shall have given to the undertaking not less than seven days' prior notice in writing of his desire to inspect the same

(4) Where publication is made under the provisions of sub rule (3) to the members of a local authority or to the directors or managing agents of a company, such publication shall only be made if the accounts, reports or documents are clearly marked with a statement that they are confidential and not to be published to any person other than another member of the local authority or another director or a member of the managing agents of the company, as the case may be

(5) Notwithstanding anything contained in the Indian Companies Act, 1913, a Registrar of Joint Stock Companies may in his discretion refuse to allow inspection, or to grant copies, of any such accounts, reports or documents as are referred to in sub-rule (2).

(6) If any person contravenes any of the provisions of this rule, he shall be punishable with fine which may extend to one thousand rupees "

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## **PART SECOND.**

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**Ordering Orders made under the Defence of India Act 1939  
upto 15th March, 1944**

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# THE GAZETTE OF INDIA.

## EXTRAORDINARY.

PUBLISHED BY AUTHORITY.

*Simla, Friday, August 1, 1941.*

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## GOVERNMENT OF INDIA

DEPARTMENT OF COMMERCE.

### Notification.

*Simla the 1st August 1941.*

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No P R. 8/41 :—In exercise of the powers conferred by Rule 81 of the *Defence of India Rules 1939*, the Central Government is pleased to make the following order.—

*Motor spirit Rationing Order, 1941.*

1 Short title (i) This order may be called the Motor Spirit Rationing Order 1941

(ii) It extends to the whole of British India.

(iii) It shall come into force on the fifteenth day of August 1941 except clauses 2, 8, 9, 10, 11, 12, 15, 16, 17, 20 and 21 and the first and second schedules which shall come into force at once.

2. Interpretation.—In this order, unless there is any thing repugnant in the subject or context.—

(a) Area Rationing Authority means an Area Rationing Authority appointed under Clause 21.

(b) Clause means a clause of this order

(c) Coupon means a coupon issued by an Area Rationing Authority authorising the supply of a unit or fraction of a unit or number of units of motor spirit and special coupons ordinary coupons and supplementary coupon means respectively a coupon which is so described in clause 9

(d) dealer means a supplier carrying on the business of supplying motor spirit as a retail business and includes a

person having charge of a supply of motor spirit controlled by Government from which any person is furnished with motor spirit for private use.

(e) licence means a licence granted by the Director of Civil Aviation or the Provincial Rationing Authority as the case may be authorising the supply of motor spirit under clause 6.

(f) Motor spirit means any liquid hydro carbon or admixture of liquid hydro carbon with any other liquid having a flash point below 76° F and capable of providing motive power to any form of internal combustion engine.

(g) Motor vehicle means any mechanically propelled vehicle constructed or adapted for use on roads

(h) Producer means a person who produces motor spirit and includes a person who by mixing motor spirit (whether produced by himself or not) with power alcohol or other substances not included in the definition of motor spirit produces a mixture which itself falls within the definition of motor spirit.

(i) Provincial Rationing Authority means the provincial Rationing Authority appointed under clause 20

(j) Quarter means a period of three months ending on 31st January, 30th April, 31st July or 31st October.

(k) Receipt means the receipt referred to in clause 6 which the holder of a licence is required to surrender when supplied with motor spirit by a supplier or dealer.

(l) Special receipt means the special receipt issued under clause 8 for use in acquiring motor spirit under clause 3

(m) Supplier means a person carrying on the business of supplying motor spirit.

(n) unit means one gallon of motor spirit or such other quantity of motor spirit as the Central Government may by notification in the official Gazette from time to time direct.

(o) a coupon is said to be valid when it authorises the supply at the time at which such supply is furnished of a quantity of motor spirit not less than the quantity supplied



and except in the case of special coupons has upon it or attached to it with the authority of the Area Rationing Authority a number or description applicable to the vehicle or class of vehicles to which the supply is furnished.

(p) Vehicle means a motor vehicle or a motor boat

*Methods of obtaining supplies of motor spirit,*

3. Supply of motor spirit for defence and internal security purposes — Motor spirit required for aircraft, vehicles or machinery employed by the Central or a Provincial Government in or in the maintenance of His Majesty's Forces or for defence or internal security purposes, or required by railway administration for purposes other than the supply to the public of facilities for the carriage of goods or passengers, when not obtained from stocks under the direct control of the Government concerned, shall be furnished or acquired only against the surrender to a supplier at the time of supply of special receipts.

4. Supply of motor spirit for administrative purposes :—  
Motor spirit required for —

(a) vehicles not covered by clause 3 and employed by the Central Government or a Provincial Government for any administrative purposes other than public transport

(b) vehicles employed by local authorities for any administrative purpose other than public transport

(c) vehicles used as ambulances, travelling dispensaries or school buses shall be furnished or acquired only against the surrender to a supplier at the time of supply of valid special coupons or of valid supplementary coupons, and only in accordance with any conditions or instructions appearing on or attached to such coupons

5 Supply of motor spirit for vehicles not covered by clauses 3 and 4 — Motor spirit required for any vehicle not covered by clause 3 or clause 4 shall be furnished or acquired only against the surrender to a supplier at the time of supply of valid ordinary coupons or of valid supplementary coupons and only in accordance with any conditions or instructions appearing on or attached to such coupon.

6. Supply of motor spirit for purposes not covered by clauses 3, 4, 5. Motor spirit required for any purpose not covered by clause 3 clause 4 or clause 5 shall be furnished or acquired only under the authority of and in accordance with the conditions contained in or attached to a licence in Form F as set out in the First Schedule, and only against the surrender to a supplier at the time of supply of a receipt in Form B, as set out in the First schedule for the quantity supplied.

7. Coupons and licences effective throughout British India,—unless it is otherwise provided by a condition or instructions appearing on or attached to a coupon or contained in or attached to a licence or a coupon a licence wherever issued may be used anywhere within British India.

Special Receipts, Coupons and Licences for the Supply of Motor Spirit.

8. Issue of special receipts. The Central or a Provincial Government or any authority authorised in this behalf by the Central or a Provincial Government may issue to such persons and for such purposes as it thinks fit special receipts in Form A as set out in the first schedule for use in acquiring supplies of motor spirit under clause 3

9. Classes of coupons and particulars attached thereto (1) There shall be three classes of coupons ; special, ordinary and supplementary

(2) A special coupon shall have attached to it the name of the person to whom it is issued and shall be valid only to authorise the supply of motor spirit to or on behalf of that person.

(3) An ordinary coupon shall have attached it to the name of the person to whom it is issued and the registration or other identifying mark of the vehicle in respect of which it is issued or where issued in respect of a service of stage carriages covered by a permit issued under section 48 of the Motor Vehicles Act, 1939, the number of that permit and the colour shall, save as provided in clause 13

or in sub clause (d) of clause 26, be valid only to authorise the supply of motor spirit to or on behalf of that person and in respect of that vehicle or a vehicle included in the service of stage carriages covered by that permit

(4) A supplementary coupon authorising the supply to a person of motor spirit in excess of the quantity covered by special coupons or ordinary coupons already issued to him shall have attached to it the same particulars and shall be valid only in the same manner and subject to the same limitations as the special or ordinary coupon which it is issued to supplement

(5) All coupons shall have attached to them a statement that they authorise the supply of motor spirit during a named month or months, and shall be valid only if presented within that month or those months. In the case of special or ordinary coupon the months named shall be successive, and shall be months included within a single quarter.

(6) All coupons shall contain expressed in units the amount of motor spirit for the supply of which the coupon is an authority

(7) Coupons shall be issued in books on the cover of which shall be entered the details required by this clause to be attached to all coupons, and shall not be valid unless presented in and not detached from the book

10 Method of obtaining coupons —(1) Any person, wishing to obtain coupons authorising the supply of motor spirit for a vehicle or vehicles shall make an application in Form G, H, I, J, K or L, as set out in the First Schedule as the case may require, to the Area Rationing Authority having jurisdiction in respect of the vehicle or vehicles in connection with which the coupons are required. The application shall give full particulars of the vehicle or vehicles or service of stage carriages for which the Motor is required

(2) An Area Rationing Authority may before sanctioning the issue of any coupons in connection with any vehicle require to be satisfied by the applicant that, in the case of motor vehicle it is registered under the Motor Vehicles Act, 1939 or in the case of a motor boat that it has, where necessary, a certificate of

survey under the inland Steam Vessels Act 1917 or the corresponding law in force in the Province of Madras, and that all taxes due in respect of the vehicle at the beginning of the period during which the coupons authorise supply, have been paid

(3) The authority by which any coupons are issued in connection with a vehicle shall cause the fact of such issue and the date thereof to be entered on the Certificate of registration of the vehicle when the vehicle is not a stage carriage or on part A of the permit issued under the Motor Vehicles Act, 1939 in connection with the vehicle when the vehicle is a stage carriage.

11. Special provision for Civil and Military officers :— (1) Notwithstanding anything contained in clause 10, the Provincial Government may direct an Area Rationing Authority to issue, to any civil or Military officer nominated by the Provincial Government supplementary coupons sufficient to ensure a supply to him of motor spirit adequate for the performance of his official duties.

(2) -An officer obtaining a supply of motor spirit under this clause shall be responsible for the custody of supplementary coupons issued to him and shall report at the end of each month to the Area Rationing Authority the number of units for which coupons have been surrendered by him.

12. Power to attach conditions of instructions to coupons - An area Rationing Authority may when issuing coupons to any person attach conditions or instructions thereto or may communicate in writing to such person the conditions or instructions governing the use of the coupons.

13. Transfer of ordinary coupons A person in whose name a motor vehicle is for the time being registered under the motor vehicle Act 1939 or who is the owner of a motor boat may if he transfers the vehicle to another person transfer to that other person ordinary coupons issued to him in connection with the vehicle, and any ordinary coupon so transferred shall be valid in the hands of that other person in respect of the transferred vehicle as it was valid in the hands of the transferor.

14. Coupons which are no longer valid to be delivered up :—A person to whom coupons have been issued or to

whom coupons have been transferred under clause 13, shall, within seven days deliver up at the office or place from which the coupons were obtained all coupons which have not been surrendered by him to a supplier upon the supply of motor spirit if —

(a) the period during which the coupons authorised the supply of motor spirit has expired, or

(b) the use of the vehicle in respect of which the coupons were issued has, by reason of failure to comply with any conditions imposed by law on its use, become unlawful, or

(c) the purpose for which the coupons were issued has ceased to apply

**15 Method of obtaining Licences** —Any person wishing to obtain a licence shall make an application in Form M as set out in the First Schedule to the Director of Civil Aviation if the motor spirit is required for use in an air craft and to the Provincial Rationing Authority in all other cases. The application shall give full particulars of the purpose or purposes for which the motor spirit is required

**16. Particulars to be expressed in licence** —(1) Every licence shall state the person to whom and the object for which it authorises the supply of motor spirit, the period for which the licence remains valid, and the amount of motor spirit of which it authorises the supply either—

(a) during the whole period of the validity of the license,  
or (b) during stated periods within that period of validity,  
or both such amounts

(2) A licence shall ordinarily be expressed as being valid for one year, but the Director of Civil Aviation or the Provincial Rationing Authority, as the case may be, may issue licence having validity for any shorter period

**17. Conditions implicit in or attached to licence** —

(1) Every licence shall be deemed to be granted subject to the condition that a supplier or dealer furnishing motor spirit on the authority of the licence shall endorse on the licence the quantity furnished on each occasion, and that the

holder of the licence shall give the supplier or dealer a receipt for the quantity supplied.

(2) The Director of Civil Aviation or the Provincial Rationing Authority, as the case may be, when granting a licence may attach to it such conditions as he or it thinks fit, and the holder of the licence shall comply with any conditions contained in or attached to the licence.

18. Power to rescind, vary or amend licences.—The Director of Civil Aviation or the Provincial Rationing Authority, as the case may be, may at any time rescind, vary or amend any licence.

19. Licence which is no longer valid to be delivered up — When a licence is rescinded, or otherwise ceases to be valid, the holder shall forthwith deliver up the licence to the Director of Civil Aviation or the Provincial Rationing Authority as the case may be,

Appointment and functions of Rationing Authorities .—

20. Provincial Rationing Authority.—(1) The central Government shall have power to give directions to a Provincial Government as to the extent to which the consumption of motor spirit in the Province shall be reduced and as to the manner in which the provisions of this Order shall be carried out.

(2) The Provincial Government shall appoint a Provincial Rationing Authority having jurisdiction throughout the Province.

(3) The Provincial Rationing Authority shall, subject to direction and control of the Provincial Government, exercise general control over the working of the system of rationing motor spirit established by this Order.

(4) The Provincial Rationing Authority may issue instructions to allow any Area Rationing Authorities as to the extent to which in issuing coupons for the supply of motor spirit to any person for any purpose the Area Rationing Authority shall aim at effecting a reduction of the amount of motor spirit consumed in normal conditions by that person for that purpose.

(5) The Provincial Rationing Authority shall have power to revise any decision or order made by an Area Rationing Authority

The Director of Civil Aviation or the Provincial Rationing Authority, as the case may be shall decide the amount of motor spirit for which, in any case covered by clause, 6, a licence may be issued, and shall issue or authorise the issue of all licences.

21 Area Rationing Authorities.—(\*1) The Provincial Government may appoint such Area Rationing Authorities, as it thinks fit, having jurisdiction in such areas and in respect of such vehicles or such class or classes of vehicles as may be specified in each case by the Provincial Government

(2) An Area Rationing Authority shall, subject, to any instructions issued in this behalf by the Provincial Rationing Authority, and to the standards specified in the Second Schedule, decide in respect of any vehicle for the time being within its jurisdictional area the amount of motor spirit for which coupons may be granted and shall authorise the issue of all coupons

(3) Any person dissatisfied with the decision or order of an Area Rationing Authority may apply to the Provincial Rationing Authority for revision of the decision or order. The Provincial Rationing Authority shall dispose of the application as it thinks fit, and shall not be bound to accord the applicant a hearing

Restrictions on supply and use of motor spirit, and dealings with receipts and coupons

22 Motor spirit to be obtained only in accordance with this order —No person shall furnish or acquire a supply of motor spirit otherwise than in accordance with the provisions contained in this Order.

23 Motor spirit to be obtained only from supplier —No person other than a supplier shall furnish, and no person shall acquire otherwise than from a supplier, a supply of motor spirit.

24. Use by producer of motor spirit for private purpose.— Except under the authority of a licence or unless the motor spirit has been obtained upon the surrender of coupons, no producer shall use or permit the use of motor spirit produced by him for purpose of supplying motive power to a motor vehicle registered in his name under the Motor Vehicles Act, 1939, or to any air craft or motor boat owned by him.

25. Economy in consumption of motor spirit. —No person shall use or permit the use of motor spirit save in such manner as will effect all reasonable economy in its consumption and will prevent any waste thereof

26. Use of motor spirit for a purpose other than that authorised —No person shall use or permit the use of motor spirit acquired by him against the surrender of special receipt or coupons or under the authority of a licence —

(a) for a purpose other than that to which the special receipts, coupons or licence relates, or for a purpose other than that for which the special receipts were issued to him or than that which was specified in any application in response to which the coupons were issued or the licence was granted, or (b) save in accordance with any conditions or instructions appearing on or attached to the coupons or otherwise communicated in writing to the person to whom the coupons were issued, or (c) for any particular purpose where a supply has been made for more than one purpose, of a quantity thereof which exceeds the quantity acquired by him for that particular purpose, or (d) in a case in which the coupons have been issued in respect of a particular vehicle, in any other vehicle except a vehicle of the same class owned by the person to whom the coupons have been issued, or

(e) in a case in which the coupons have been issued in respect of a class of vehicle, in any other class of vehicle.

27. Receipts and coupons to be surrendered only at time of supply of motor spirit —No person shall surrender to a supplier and no supplier shall accept special receipts or coupons



or receipts at a time other than the time at which the supply of motor spirit authorised by the special receipts or coupons or acknowledged by the receipts is furnished.

**28 Use of coupons for purpose other than that authorised —**  
No person shall use or permit the use of coupons —

(a) for a purpose other than that to which the coupons relate or other than that specified in any application in response to which the coupons were issued, or

(b) save in accordance with any conditions or instructions appearing on or attached to the coupons or otherwise communicated in writing to the person to whom the coupons were issued.

**29. Transfer of coupons —**Save as provided in clause 13 no person shall transfer to any other person coupons issued to himself.

**30 Obtaining coupons while possessed of coupons —**  
No person shall, while in possession of coupons obtained from an Area Rationing Authority in respect of a particular vehicle, or vehicles, obtain or attempt to obtain coupons from that or any other Area Rationing Authority in respect of the same vehicle or vehicles without disclosing full particulars of the coupons in his possession

**31. Preservation of special receipts, coupons and receipts —**A supplier other than a dealer shall retain all special receipts, coupons and receipts received by him, and a dealer shall retain all special receipts, coupons and receipts received by him, except such as he surrenders to a supplier when himself obtaining a stock of motor spirit until the Provincial Rationing Authority authorises their destruction

**32 Keeping of accounts and records and furnishing returns —**A supplier shall, if so required by a general or special direction issued by the Central Government, keep such books, accounts and records, and furnish such returns at such times and to such authorities as may be specified in the direction.

**33. Powers of supervision and inspection —**

(i) A supplier, and a person employed in connection with

the business of a supplier, shall, if requested so to do by or on behalf of the Provincial Rationing Authority.—

(a) produce to any person mentioned in the request such books, accounts or other documents relating to the business (including the coupons, special receipts, receipts received by him) as may be mentioned in the request,

(b) furnish to any person mentioned in the request such estimates, returns or information relating to the business as may be mentioned in the request, and

(c) permit any person authorised by the Provincial Rationing Authority in that behalf to enter and inspect any premises used for or in connection with the business.

(v) The powers exercisable under this clause shall not be exercised except for the purpose of securing compliance with the provisions of this Order.

34. Exemption — Nothing in this Order shall apply to —

(a) the supply of motor spirit to a dealer by a supplier (i) on not more than one occasion within one month of the coming into force of this Order, or (ii) against surrender by the dealer to the supplier of special receipts, coupons or receipts, indicating the previous supply by the dealer of a quantity of motor spirit not less than 98 per cent of the quantity there of supplied to him, or

(b) the transfer of motor spirit from one supplier to another, or

(c) the supply of motor spirit by a producer thereof to a supplier, or

(d) the importation of motor spirit; or

(e) the supply from stocks under the direct control of the Government concerned of motor spirit for use in—

(i) vehicles employed by the Central or a Provincial Government for defence or internal security purposes, or

(ii) vehicles, aircraft and machinery employed in or in maintenance of His Majesty's Forces.

35. Reciprocal arrangements with Indian States—if the Central Government of an Indian State has made within the state provision for the rationing of motor spirit which is

substantially the same as that made in this Order, and the Government of that Indian State will accept as effective within the state, special receipts, coupons, licences and receipts issued in British India, the Central Government may by notification in the official Gazette, direct that so long as the notification remains in force special receipts, coupons, licences and receipts issued by or under the authority of the Government of that Indian State shall be effective in British India as though they had been issued in British India

36 Restriction on bringing motor spirit into British India — No person other than a supplier shall bring into British India motor spirit obtained outside British India, unless.

(i) he has acquired it against the surrender of a special receipt, coupon or receipt accepted as effective within an Indian State in respect of which a notification under clause 35 has been issued and is in force, or

(ii) the motor spirit is in the ordinary fuel tank of a motor vehicle or aircraft travelling into British India

37 Special provision for persons temporarily visiting British India—Not withstanding anything contained in this Order, when a person temporarily visiting British India, applies to an Area Rationing Authority for Coupons under clause 10, the area rationing authority may instead of issuing ordinary coupons, issue supplementary coupons for such number of units as it thinks reasonable in all the circumstances of the case. Such supplementary coupons shall be stamped with the word "visitor".

## GOVERNMENT OF INDIA

### DEPARTMENT OF COMMERCE

No Econ Ad (P C) 550/42 dated the 21st May 1942

In exercise of the powers conferred by sub-rule (2) of Rule 81 of the *Defence of India Rules* the Central Government is pleased to make the following order, namely —

### Food Grain Control Order, 21st May, 1942

1 (1) This order may be called the Foodgrain Control Order, 1942

(2) It extends to the whole of British India, but shall come into force in any province only on such date as the Provincial Government may by notification in the official gazette appoint in this behalf

2. In this order, unless there is anything repugnant in the subject or content:—

(a) "Foodgrain" means such one or more of the Commodities specified in the First Schedule to this order as the Provincial Government may from time to time by notification in the Official Gazette declare to be a foodgrain to which the order applies ;

(b) "Form" means a form as set forth in the second schedule to this Order ;

(c) "Purchase in wholesale quantities" means sale in quantities exceeding 20 maunds in any one transaction & includes sale by any person on behalf of another as a Commission agent or as an Arhatya ;

(d) "*Storage for sale in wholesale quantities*" means storage in quantities exceeding 20 maunds for purposes of sale, whether wholesale or retail, and includes storage by any person on behalf of another as a commission agent or an arhatiya<sup>1</sup> and storage by an employer for the purpose of supplying on payment or otherwise, food or foodstuffs to any of his employees<sup>2</sup>.

3 (1) No person shall engage in any undertaking which involves the purchase, sale or storage for sale, in wholesale quantities of any foodgrain except under and in accordance with a licence issued in that behalf by the Provincial Government or by an officer authorised by the Provincial Government in this behalf.

Provided that, if in any Province other provisions exist for the licensing of persons engaged in any such undertaking as aforesaid, the Provincial Government may by Notification in the Official Gazette direct that licenses for the time being in

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1. Added by Dept of Food —Notification No 1038/43, dated 18th March 1943

2. Added by D C, Dept Notification No D C 10 (2)/42 dated 22nd May 1943.

force issued under the provision shall be deemed for all the purposes of this order to be licences issued thereunder ;

<sup>1</sup>(2) \* \* \* \* \*

<sup>2</sup>Provided further that any license issued or deemed to be issued, under this clause in any of the four provinces of Assam, Bengal, Bihar and Orissa and for the time being in force in the Province of issue shall be valid in each of the other three Provinces as is if had been issued by the Provincial Government of that Province ;

(3) For the purposes of this clause any person who stores food grain in quantities exceeding 50 maunds may, unless the contrary is proved, be deemed to store the foodgrain for the purposes of sale.

4 Licenses issued under this order shall be in Form A, and shall specify—

(a) the foodgrain or food grains in which the licensee may deal ;

(b) the place or places at which the licensee may carry on the licensed undertaking,

5 Applications for licences under this Order shall be made in Form B to the Provincial Government or to an officer authorised by the Provincial Government in this behalf

6 (1) No person being the holder of a licence issued, or deemed to be issued, under this order shall contravene any of the conditions mentioned in Form A ; and if any person contravenes any of the said conditions, then without prejudice to any other action that may be taken against him, his licence may be cancelled by order of the Provincial Government or of an officer authorised by the Provincial Government in this behalf.

(2) Notwithstanding anything contained in sub-clause (1) the Provincial Government may, in special circumstances, without giving any previous notice or without assigning any reason, suspend or cancel a licence issued, or deemed to be issued, under this order

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1. Omitted by Food Dept No D C. -604/2, 16 August 1943

2. Added by Food Dept. Notification No C. G-IV 27/43 dated 22nd May 1942.

7. Any person authorised by the wheat commissioner for India or the Provincial Government in this behalf may enter upon and inspect any premises in which he has reason to believe that the purchase, sale or storage for sale, in whole-sale quantities of any food grain is taking place contrary to the provisions of this order.

7-A If any person contravenes the provisions of clause (3) or clause (6) of this order then without prejudice to any other punishment to which he may be liable any court trying the offence may order that any stocks of foodgrains, together with the packages and coverings thereof, in respect of which the court is satisfied that the offence has been committed, shall be forfeited to His Majesty.

Except in such areas as the Provincial Government may from time to time notify in the Official Gazette, nothing in this order shall apply to the sale or storage for sale by any person of any foodgrain produced by himself or by his tenant

### THE FIRST SCHEDULE

[See clause 2 (a)]

1 Wheat and wheat products (including *ata*, *maida*, *rava*, *suji*, and *bran*, *Triticum spp* inclusive of the different species).

- 2 Rice in the husk (paddy) (*Oryza Sativa*)
- 3 Rice husked (*Oryza Sativa*)
- 4 Maize (*Zea mays*).
- 5 Jowar. (*Sorghum vulgare*)
- 6 Bajra (*Pennisetum typhoides*)
- 7 Grams any variety (*cicer arietinum*)
- 8 Barley (*Hordeum vulgare*)
- 9 Rahar (*cajanus indicus*)
- 10 Ragi or mandua (*Elcusive carana*)
- 11 Masur (*Lens esculan tr* or *Ervum Lens*)
- 12 Kodra (Kodon) (*Parpalim scrobi culaturu*)
- 13 Korra (Tenai) (*Setaria italica*)

## THE SECOND SCHEDULE.

## Forms.

*Notes.*—Vide Food Dept Notification No. C. G. 61(1)/12 dated 12th August 1943, in exercise of the powers conferred by Rule 94-B of the Defence of India Rules the Central Government prohibited the making of advances of money to any person on the security of any foodgrains as defined in clause 2 of the Foodgrains Control Order, 1942, unless—

(a) that person is the holder of a license issued or deemed to be issued under the said Order, or

(b) the advance is to be made to that person on the foodgrains produced by himself or his tenants.

## GOVERNMENT OF INDIA

## DEPARTMENT OF COMMERCE.

No. Econ Ad (P C) 7/41 (A) dated the 28th May 1942.

In exercise of the powers conferred by sub-rule (2) of rule 81 of the *Defence of India Rules*, the Central Government is pleased to make the following order, namely—

**THE FOODGRAINS ( FUTURES & OPTION  
PROHIBITION) ORDER, 1942**

1. (1) This Order may be called the Food grains (Future and Option Prohibition) Order, 1942.

(2) It extends to the whole of British India.

(3) It shall come into force on 28th day of May 1942.

2 In this order unless there is something repugnant to the subject or context,—

(a) “ Foodgrains ” means any of the food grains specified in the Schedule to this order :

(b) “ Futures in foodgrains ” means any agreement relating to the purchase or sale of foodgrain made on a forward basis and providing for delivery at some future date and payment of margin on such date as may be expressly or impliedly agreed upon by the parties ;

(c) “ Margin ” means the difference between the price specified in an agreement relating to the purchase or sale of

food grain and the prevailing market price for the same quality and quantity of food grain on a particular day ,

(d) " Option in food grain " means an agreement for the purchase or sale of the right to buy or a right to sell or a right to buy and sell any food grain in future and includes a Teji and Mandi and a Teji-Mandi in any food grain.

3. After the commencement of this order no person shall—

(a) save with the permission of the Central Government or of an officer authorised by the Central Government in this behalf, enter into any " futures in foodgrain " or pay or receive, or agree to pay or receive any margin in connection with any such futures ;

(b) enter into any options in food grain .

4. Every future in food grain entered into before the commencement of this order and outstanding for settlement shall be settled at the prevailing market rate applicable to the agreement at the close of transactions on the 27th May 1942.

5. All options in foodgrain entered into before the commencement of this order and remaining to be performed whether wholly or in part shall be void within the meaning of the Indian Contract Act, 1872, and shall not be enforceable by law.

6. No person being the owner or occupier of any premises shall knowingly permit such premises to be used—

(a) for the making of any futures or options in foodgrain, or the payment or receipt of any margins, prohibited by clause 3, or

(b) for the settlement of any futures in foodgrain in contravention of the provisions of clause 4, or

(c) for the performance of any options in foodgrain declared void by clause 5.

7. The Central Government may by a notification in the Official Gazette appoint such persons as it thinks fit to be Inspectors for the purposes of this order within such local limits as it may assign to them respectively.



8. An Inspector appointed under clause 7 may, within the local limits for which he is appointed—

(a) enter and inspect any premises used or believed to be used for the making or performance of futures or options in foodgrain, or the payment or receipt of margins, with such assistants, if any, as he may think fit ;

(b) require the owner, occupier, or other person in charge of the premises to produce any books, accounts or other documents relating to the said transactions ,

(c) take a cause to be taken abstracts from or copies of any documents relating to the said transactions which are produced before him or otherwise found in the premises.

### SCHEDULE.

1 Wheat.

2. Grams.

*Notes* —Vide Notification No. Econ Ad. (P C) 7/41 (B) in pursuance of clause 3 of this order the Central Government has authorised the Wheat Commissioner for India , for the purposes of the said clause as respects—

(i) futures in wheat, and

(ii) futures in grams.

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### GOVERNMENT OF INDIA.

#### DEPARTMENT OF COMMUNICATION.

*New Delhi, the 26th May, 1942.*

No P. R. 353 (1)/42.—Where as it appears to the Central Government that the use, on an increasing scale, of Kerosene and similar oils known under other names as motor fuel in contravention of the Motor Spirit Rationing order, 1941, and the Excise Law, is prejudicial to the efficient prosecution of the war, and to the maintenance of supplies and services essential to the life of the community.

Now, therefore, in exercise of the powers conferred by rule 81 of the Defence of India Rules, the Central Government is pleased to make the following order, namely—

**The Motor Vehicles (Kerosene Prohibition) order, 1942.**

1. (1) This order may be called the Motor Vehicles (Kerosene Prohibition) order, 1942.

(2) It shall come into force on the first of June 1942.

2. In this order unless there is anything repugnant in the subject or context,

(a) "petroleum" means any liquid hydrocarbon or mixture of hydrocarbons, and any inflammable mixture (liquid, viscous or solid) containing any liquid hydrocarbon ;

(b) "dangerous petroleum" means petroleum having its flashing point below 76°F ;

(c) "flashing point" of any petroleum means the lowest temperature at which it yields a vapour which will give a momentary flash when ignited, determined in accordance with the provisions of section 2 of the Petroleum Act, 1934 ;

(d) "authorised person" means any person authorised by the Central or Provincial Government for carrying out all or any of the provisions of this order ;

(e) "motor vehicle" has the meaning assigned to it in clause (18) of section 2 of the Motor Vehicles Act, 1939.

3. No person shall use in a motor vehicle for supplying motive power thereto, or possess or sell or otherwise supply for such use, any petroleum, not being dangerous petroleum, having its flashing point below 150°F, either alone or admixed in any proportion with any other petroleum or other substance.

4. Where any authorised person has reason to believe that any petroleum or admixture thereof is being used in a motor vehicle or possessed, sold or otherwise supplied in contravention of this order, such person may—

(a) examine any such motor vehicle ;

(b) enter, and inspect any premises on which any petroleum or admixture thereof is believed to be kept, and

(c) require the person in possession of any such motor vehicle and the occupier of such premises, or a person employed therein by the occupier, to give him on demand samples of any petroleum and of any admixture thereof found in such motor vehicle or on such premises ;

and the person in possession of such vehicle or the occupier of such premises as the case may be or his agents or servants shall furnish the means required by such authorised person for entry, inspection and examination.

5. If any person is convicted of an offence against this order, in addition to any penalty to which he may be liable, the whole of the petroleum or admixture thereof in respect of which the offence was committed shall be confiscated.

## THE GOVERNMENT OF INDIA.

### DEPARTMENT OF COMMERCE.

No. 104—Ind (28)/41 dated 29th January 1942.

In exercise of the powers conferred by sub-rule (2) of rule 81 of the Defence of India Rules, the Central Government is pleased to make the following order, namely .—

#### *The Newspaper Control Order, 1942.*

1 (1) This order may be called the news paper control order, 1942.

(2) It shall come into force on the 2nd day of February 1942.

2. (1) For the purposes of this order—

(a) “Newspaper” means a publication—

(i) Consisting wholly or in greater part of political or other news, or of articles relating thereto or to other current topics, whether or not it also contains advertisements, and

(ii) published at intervals of not more than thirty-one days, and

(iii) printed wholly or in part on newsprint, as defined in the News-print control order, 1941 ;

(b) newspaper shall be classified into the three classes specified in the second column of the schedule annexed to this Order, according to the page—area ;

*Explanation* —In computing page—area margins clear of print shall be included ,

(c) “Week” means a period of seven consecutive days beginning on a Monday ;

(d) "daily newspaper" means a newspaper not less than 6 issues of which are normally published in a week

(2) If any dispute arises as to whether a publication is or is not a newspaper for the purposes of this order, the decision thereon of the Central Government or of an officer appointed by the Central Government in this behalf shall be final.

3. No newspaper having a retail sale price specified in the first column of the schedule annexed to this order shall be published, sold or offered for sale by any person, unless it contains a number of pages not exceeding the number specified in the corresponding entry, applicable to its class, in the second column of the said schedule ;

Provided that in the case of a daily newspaper, all issues, or all issues but one, of which in any week have the same retail price, the number of pages prescribed in this paragraph may be exceeded in one or more issues during that week, so long as the maximum total number of pages admissible for the actual number of issues during that week is not exceeded.

4. (1) In addition to the normal issues, a specified issue of two pages only may be published for sale in areas in which no newspaper published after the hour of 3 P.M. is in circulation.

(2) Special issues published in pursuance of sub-paragraph (1) shall not be taken into account for the purposes of paragraph 3.

5. In the case of a daily newspaper referred to in the proviso to paragraph 3, where by reason of the occurrence of New years' day or of some day of religious observance, the publication of a normal issue is withheld on that day or on the day next morning, the total number of pages admissible during the period comprising the week in which the publication of the normal issue is withheld and the week next morning, may be increased by half the number of pages which the unpublished issue might, in accordance with the provisions of the schedule annexed to this order, have contained,

6. Where under the operation of any provision of this order, the number of pages admissible for publication is an odd number, the publication only of the number of pages next below such odd number shall be admissible.

7<sup>1</sup> " No person shall return or offer or attempt to return any unsold copies of any newspaper, or accept or offer to accept or attempt to obtain any payment or repayment or allowance from any person by reason of any copies of any newspaper, being unsold

Provided that this prohibition shall not apply to—

(a) the sale or disposal of any unsold newspaper as waste-paper or as packing or wrapping paper ; or

(b) the return of any copies which could not be sold owing to enemy action."

### THE SCHEDULE

(See paragraphs 2 (1) (b), 3 and 5 )

Retail sale price in annas.	Maximum Number of Pages.		
	Class A (Page area not less than 336 square inches)	Class B (Page area less than 836 square inches but not less than 200 square inches)	Class C (Page area less than 200 square inches)
Less than $\frac{1}{2}$	2	2	4
Less than $\frac{3}{4}$ but not less than $\frac{1}{2}$	4	6	8
Less than 1 but not less than $\frac{3}{4}$ .	6	8	12
Less than $1\frac{1}{2}$ but not less than 1.	8	12	16
Less than 2 but not less than $1\frac{1}{2}$	12	18	24
Less than $\frac{n+1}{4}$ but not less than $\frac{n}{4}$	$2n -$	$3n$	$4n$

$n$  being a whole number greater than 7

<sup>1</sup> Inserted by commerce Dept Notification No. 104-I.C. (23)/42 dated 12th. March 1942.

**GOVERNMENT OF INDIA****DEPARTMENT OF SUPPLY.**

No. 1184, New Delhi, the 25th November 1942.

In exercise of the powers conferred by sub-rule (2) of rule 81 of the Defence of India Rules and in supersession of the Non-Ferrous Metal Control order, 1941, the Central Government is pleased to make the following order, namely :

**Non-Ferrous Metals Control Order, 1942.**

1. This order may be called the Non-Ferrous Metals Control order 1942.

2. In this order, unless there is anything repugnant in the subject or context ;

(a) " Controller " means the Director General of Munitions Production or an officer authorised by him to perform the duties assigned by this order to the controller ;

(b) " Controlled non-ferrous metal " includes nickel, tin, lead, zinc or spelter, and copper

(c) " nickel " includes all forms of nickel such as scrap, clippings, foil, shot, pellets, arrodes, and electrolytic slabs and all alloys of nickel in which nickel is the major Constituent by weight ;

(d) " tin " includes all forms of tin and its alloys such as tin ignot, block tin, tin foil, soft solder, bearing metal (white metal), printing alloys, and their scrap, but excludes tin plate in any form ;

(e) " lead " includes all forms of lead and its alloys such as pig lead, lead ignot, antimonial lead, lead foil, soft solder, bearing metal (white metal), printing alloys, battery lead, and their scrap ;

(f) " zinc " or " spelter " includes all commercial forms of zinc such as cake, sheet, strip, granulations, rod and wire ; alloys in which the percentage of zinc exceeds 85 per cent ; and all scrap, clippings, dross, hard spelter, galvaniser's residues, and electro-zincing residues ,

(g) " Copper " includes—

(i) all forms of electrolytic or high conductivity copper,  
and

(ii) fire-refined copper in the [ignot] or [unwrought form only ;

(h) "stock holder " means any person who has in his possession or under his Control not less than 1 cwt. of nickel or tin or not less than one ton in the aggregate in any one Calendar month of any other controlled non-ferrous metal ;

(i) " dealer " means any person including a stockholder who is habitually engaged in the business of selling controlled non-ferrous metal and whose transaction in such metal in any one Calendar month exceeds 1 cwt

(j) " Form " means a form annexed to this order.

3 No person shall be stock holder or dealer except under, and in accordance with the conditions of a license in Form A granted by the controller

4 No person shall engage in any undertaking which involves the use or consumption for the purpose of any manufacturing process of more than 5 lbs of nickel or 50 lbs of any of the other controlled non-ferrous metals in anyone calendar month except under, and in accordance with, the conditions of a license in Form B, granted by the controller

5. The controller may at anytime cancel or modify any license granted under clause 3 or clause 4

6 (1) No person shall acquire or agree to acquire, more than 1 lb of tin or lead fuse wire, or 20 lbs of nickel or copper wire, or 1 cwt of any other controlled non-ferrous metal in one Calendar month unless he has prior to such acquisition or agreement made an application in Form C to the Controller and has obtained a permit from the Controller in Form D`

(2) No dealer may sell more than 1 lb of tin or lead fuse wire or 20 lbs of nickel or copper wire or 1 cwt of any other Controlled non-ferrous metal in anyone Calendar month to any buyer who is not in possession of a valid permit in Form D.

(3) No person acquiring any Controlled non-ferrous metal in accordance with the terms of the permit in Form D shall use the metal for any other purpose than specified in the permit.

7. Any officer authorised by the Central Government in writing in this behalf may enter upon and inspect any premises in which he has reason to believe—

(a) that any Controlled non-ferrous metal is stocked or sold,

(b) that any undertaking of the nature described in clause 4 is carried on.

8. (1) Every person required to obtain a license under clause 3 and every person engaged in an undertaking of the nature described in clause 4 shall—

(a) not later than the seventh day of each Calendar month submit to the Controller, a true return in Form E of all quantities of controlled non-ferrous metals in his possession or under his control and of all purchases and sales effected during the previous month,

(b) keep such books, accounts and other records relating to his stocks, sales or undertakings as the Controller may direct;

(c) produce to any officer authorised by the Controller in writing in this behalf such books accounts or other records relating to his undertaking as may be demanded by the officer aforesaid.

(2) Every person required to obtain a license under clause 3 shall furnish to the Controller within two days of any sale, particulars of each such sale effected by him.

9. Notwithstanding the supersession of the Non-Ferrous Metals Control Order, 1941 (in this clause referred to as the said Order)—

(a) Any license issued to stock holders or dealers under paragraph 3 of the said Order shall be deemed to be a license under clause 3 of this Order,

(b) Any sale permit issued under paragraph 6 of the said Order shall be valid until December 31st 1942, after which date all such permits shall be deemed to have been cancelled,

(c) Any offence under the said Order shall be triable and punishable as if the said Order were still in force

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## GOVERNMENT OF INDIA

## DEPARTMENT OF INDUSTRIES AND CIVIL SUPPLIES

No. 51-*Tex.* (B)/44, dated 15th January 1944.

In exercise of the powers conferred by sub-rule (2) of rule 81 of the *Defence of India Rules*, the Central Government is pleased to make the following order —

**The Cotton Textile (Dyes and Chemicals) Control  
Order, 1944**

1. (1) This order may be called the Cotton Textile (Dyes and Chemicals) Control Order, 1944

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. In this order,—

“Chemicals” means any of the chemicals specified in the Schedule to this order, “dyes” means any dyes imported into India, “Textile Commissioner” means the Textile Commissioner, Bombay, and includes any officer authorised by him to exercise all or any of the powers of the Textile Commissioner under this Order

3 No person shall sell or otherwise dispose of dyes or chemicals except under and in accordance with the terms of a valid license granted by the Textile Commissioner in compliance with a direction given to him under clause 4.

4. The Textile Commissioner may, by order in writing, require any dealer in dyes or chemicals to sell to such person as may be specified in the Order, such quantities of dyes or chemicals as may be so specified, and the dealer shall comply with the order

5 The Textile Commissioner may, if he has reason to believe that any person has contravened, is contravening, or is likely to contravene, any of the provisions of this order —

(a) require him to give such information in his possession with respect to any business carried on by him as the Textile Commissioner may demand,

(b) inspect or cause to be inspected any books or documents belonging to or under the control of that person,

(c) enter and inspect, or authorise any subordinate officer to enter or inspect, any premises belonging to or under the control of that person.

6 No person shall, with intent to evade the provisions of this order, refuse to give any information lawfully demanded from him under clause 5 or conceal, destroy, mutilate or deface any book or other document relating to his business.

### SCHEDULE

(SEE CLAUSE 2)

Chemicals to which the Order applies

Beta Nephthol	Rangolite C or Formosul.
Chromium Acetate	Shirlan Paste
Meta-Toluylene Diamine	Sodium Acetate
	Sodium Nitrate

*Note.*—The Central Government, in exercise of the powers conferred by sub-section (4) of section 2 of the Defence of India Act, 1939 (XXXV of 1939) is pleased to direct that the powers conferred on it by clause (b) of rule 81 of the Defence of India Rules shall, in respect of all the articles to which the Cotton Textile (Dyes and Chemicals) Control Order, 1944, for the time being applies, be exercisable also by the Textile Commissioner, Bombay vide Department of Industries and Civil Supplies Notification No. 51-Tex. (B) 144 (ii) dated the 15th January 1944.

### GOVERNMENT OF INDIA.

DEPARTMENT OF INDUSTRIES AND CIVIL SUPPLIES

No 34—Tex (1) 43 dated the 17th June, 1943

In exercise of the powers conferred by sub-rule (2) of Rule 81 of the *Defence of India Rules*, the Central Government is pleased to make the following Order, namely.—

**The Cotton Cloth and Yarn (Control) Order, 1943.**

1 (1) This Order may be called the Cotton Cloth and Yarn (Control) Order, 1943

(2) It shall come into force at once

2. The provisions of this Order shall be in addition to and not in derogation of any other law for the time being in force,

3 In this Order, unless there is anything repugnant in the subject or context,

<sup>1</sup>(a) "cloth" and "yarn" mean respectively any type of cloth or yarn manufactured either wholly from cotton, or partly from cotton and partly from any other material and containing not less than 10 per cent of cotton by weight, but "cloth" does not include—

(i) ready made clothing other than *Dhoties* and *Sarees*;

(ii) hosiery,

<sup>2</sup>(iii) any articles which are Indian Woollen goods as defined in the Indian Woollen Goods (Control) Order, 1944.

(b) "dealer" means a person carrying on the business of selling cloth or yarn are both, whether wholesale or retail, and whether or not in conjunction with any other business; and shall include master—weavers of handloom cloth <sup>3</sup>

(c) "manufacturer" means a person engaged in the manufacture of cloth or yarn or both

(d) "Textile Commissioner" means the Textile Commissioner appointed by the Central Government and includes such Additional Textile Commissioners as may be appointed by the Central Government

4 (1) The Central Government may constitute a Textile Control Board (hereinafter referred to as the Board) consisting of 25 members to advise the Central Government through the Textile Commissioner generally on matters connected with the purposes of this Order (including matters connected with the export of cloth, yarn and raw cotton) and in particular in respect of the functions of the Textile Commissioner under clauses 10 and 11

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1 Substituted by Department of Industries & Civil Supplies No 34-Tex A (1)/13/45 dated the 22nd January 1944

2 Inserted by Dept of Industries & Civil Supplies No Tex (1) 15/44, dated the 19th February 1944

3. Inserted by Dept of Industries & Civil Supplies No Tex.-34 (Tex.) 1/43, dated the 14th August 1943

(2) The chairman of the Board shall be such non-official member thereof as the Central Government may designate in this behalf

5 (1) The Board may by resolution form from amongst its members such Committees as it thinks expedient to exercise on its behalf such of its functions as may be specified in the resolution ;

Provided that any such Committee formed for the purposes of advising on technical matters connected with the purposes of this Order and in particular on matters relating to the fixation of prices, increase in production, standardisation, and rationalisation, shall be composed only of members representing the Textile Industry, and subject to the provisions of clause 9 its advice on all such matters shall ordinarily be acted upon.

(2) Any such Committee shall not exceed fifteen in number and it shall elect a chairman from amongst its members.

6. Any Committee of the Board may co-opt such additional members not exceeding ten in number as it think fit and having special knowledge of the subject with which the committee is concerned, and the members so co-opted shall have the same rights as the other members of the committee.

7. (1) A Committee of the Board may by a resolution form from amongst its members a standing Sub-Committee to exercise on its behalf such of its functions as may be specified in the resolution.

(2) Any such standing Sub-Committee shall not exceed five in number and if the chairman of the committee is a member of the standing Sub-Committee he shall be the chairman thereof.

8 The Board may in consultation with the Central Government make rules to regulate the calling of, and procedure at meetings of the Board, Committees and standing Sub-Committees (including the fixing of quorum)

9. (The Board or any committee or Standing Sub-Committee acting in the exercise of the functions assigned to it under clause 5 or as the case may be clause 7 may tender

advice to the Central Government through the Textile Commissioner on matters connected with the purposes of the Order and in particular in respect of the functions of the Textile Commissioner under clause 10 or 11

Provided that if the Textile Commissioner is unable to recommend to the Central Government to accept the advice so tendered he shall refer the matter back to the Board, Committee or standing Committee as the case may be for further consideration

(2) If after such reference the Textile Commissioner is still unable to recommend to the Central Government to accept any advice so tendered by the Board or any Committee or standing sub-committee, he may, or if the Chairman of the Board so requires shall, refer the question for the decision of the Central Government who shall consult the Board or the Committee or Standing Sub-Committee as the case maybe before giving its decision

(3) Before issuing any notification under clause 10 or any direction under clause 11 otherwise than in pursuance of advice tendered to him by the Board or a Committee or Standing Sub-Committee, the Textile Commissioner shall consult the Chairman of the Board, who shall refer the question to the Board or, in his discretion to the appropriate Committee or the Standing Sub-Committee

(4) The Textile Commissioner may refer any matter on which he desires advice, or make any proposal, to the Chairman of the Board who shall refer the same to the Board or, in his discretion, to the appropriate Committee or Standing Sub-Committee.

(5) If the opinion of the majority of the members of the Board or any Committee or Standing Sub-Committee, as the case may be, present at the meeting at which the question is discussed, is adverse to the Textile Commissioners' proposal, he shall, if he does not accept the advice of such majority, refer the question for the decision of the Central Government who shall consult the Board or the Committee, as the case may be. before giving its decision.

10. The Textile Commissioner may, subject to the provisions of clause 9, by notification in the Official Gazette,—

(a) declare and define classes and specifications of cloth and yarn for the purposes of the Order ;

(b) fix the maximum prices, both *ex-factory, wholesale* and *retail*,<sup>1</sup> at which all or any classes or specifications of cloth or yarn may be sold ,

(c) prescribe the markings, and the manner of making thereof, which manufacturers shall make upon cloth (*other than handloom cloth*<sup>2</sup>) manufactured by them.

“(d) prescribe the maximum quantity of handloom cloth which may be stocked by any dealer and the maximum time for which he may hold such stock ”.

11. The Textile Commissioner may, subject to the provisions of clause 9, by notice in writing direct any manufacturer to manufacture only such classes or specifications or cloth or yarn, and in such quantities (whether maximum or minimum), as he may specify in the notice.

12. (1) No manufacturer or *wholesale*<sup>1</sup> or retail dealer shall sell or offer to sell any cloth or yarn in excess of the maximum *ex-factory, wholesale*<sup>1</sup> or retail price, as the case may be fixed under this Order in respect thereof, and no person shall otherwise contravene any notice or direction of a Textile Commissioner issued under this Order.

“(2) Every sale of cloth, except to a consumer, shall be at a price either F. O. R. station of despatch or ex-godown of storage at the buyers option.

(3) A dealer shall not buy or sell, except to a consumer, cloth at a price, either ex-any godown of storage or F.O.R. any station of despatch (being a godown or station within 100

1. Substituted by Dept. of Industries and Civil Supplies notification No 34-Tex (1)/43, dated the 14th August 1943.

2. Inserted by *ibid*.

3. Sub-clauses (2) to (4) of clauses 12 inserted by Dep. of Industries and Civil Supplies notification No 34-Tex A(1)/13/48, dated the 22nd January 1944

miles of the manufacturers' premises), which exceeds by more than four per cent the ex-mill maximum price or ex-mill contact price which ever is less

(4) A dealer shall not buy or sell, except to a consumer, cloth at price, either ex-any godown or storage or F O R any station of despatch (not being a godown or station within 100 miles of the manufacturers' premises), which exceeds by more than ten per cent the ex-mill maximum price or the ex-mill contact price whichever is less."

113 (1) "All cloth (other than handloom cloth) and yarn packed by a manufacturer after the 31st July 1943 shall be marked by him with the date of packing in such manner as may be specified by the Textile Commissioner under clause 10 "

(2) All cloth and yarn so marked (*not being cloth and yarn in loose pieces or bundles which are being offered for retail sale*<sup>2</sup>) shall be despatched from the place of manufacture within one month of the date of packing if in full bales or cases<sup>3</sup> and within 45 days of the date of packing if not in full bales or cases<sup>3</sup>

<sup>2</sup>"*Explanation* —In this sub clause "place of manufacture" means the town in which the factory where the cloth or yarn is manufactured is situated "

<sup>4</sup>"(4) The Textile Commissioner may, by general or special order exempt any cloth or yarn, or any class of cloth or yarn, from all or any of the provisions of this clause "

14 (1) No cloth or yarn manufactured before the 31st August 1943 shall *unless otherwise authorised by the Textile Commissioner*<sup>2</sup> remain in full bales or cases<sup>3</sup> after the 31st August, and all such cloth and yarn shall be finally

1 Inserted by I & C S Dept notification No 34-Tex (1)/43, dated 16th September 1943

2 Inserted by I & C S Dept notification No 34-Tex (1)/43, dated 14th August 1943

3 Added by I & C S Dept notification No 34-Tex (1)/43 dated 27th August 1943

4 Inserted by I & C S Dept notification No 34-Tex A (1) (10)/43, dated 23rd October 1943,

disposed of by retail sale not later than 31st December 1943<sup>1</sup>

(2) No person shall after the 31st December, 1943<sup>1</sup> offer for sale cloth or yarn which has not been marked under sub-clause (1) of clause 13, provided that on application made for sufficient reasons to him in this behalf the Textile Commissioner or such other person as may be specified by him under clause 16 may extend in any particular case the provisions specified in this sub-clause.

“(3) Nothing in this clause shall apply to handloom cloth.”

15 Nothing in other than sub-clause (1) thereof<sup>2</sup> and 14 shall apply to cloth or yarn held for the purpose of export from India and in respect of which export licenses have been issued by the appropriate authority; nor to cloth or yarn held for supply to the Central Government for Defence requirements.

“15 A. Notwithstanding anything contained in clause 14 (1) (b) and 14 (2) (b), cloth or yarn not disposed of within the period specified in those clauses may be kept and sold by a dealer subject to the conditions notified in this behalf by the Textile Commissioner prescribing the special markings to be made on such cloth or yarn, the agency by which the marking shall be made and the fee payable for such marking

Provided, however, that no such cloth or yarn shall be kept undisposed of by any dealer, or by any person holding on behalf of a dealer, for more than six months after the date of such marking ”

16. (1) Every manufacturer and every dealer and every person with whom any stacks of cloth or yarn have been pledged

1 Substituted by I & C, S Dept notification No 34-Tex - A (1) (11)/43, dated 30th October 1943

2, Inserted by I & C S Dept notification No 34-Tex - (1)/43, dated 14th August 1943

3 Inserted by I & C S. Dept notification No 34 Tex /(1)' 43, dated 4th September 1943

4 Added by I & C S Dept notification No 34-Tex - A (1)/43, dated 22nd January 1944.



by a manufacturer or dealer<sup>1</sup> shall not later than the 15th August 1943 declare the stocks of cloth and yarn held by him on the 31st July 1943 in such form and to such authority as may be specified by the Textile Commissioner

(2) Every manufacturer and every dealer and every person with whom any stocks of cloth or, yarn have been pledged by a manufacturer or dealer shall not later than such date as may be notified in the Official Gazette by the Central Government declare the stocks of cloth and yarn held by him on such date as may be notified as aforesaid in such form and to such authority as may be specified by the Textile Commissioner.

“ 17 (1) Without prejudice to any of the other provisions of this Order no person shall at anytime have in his possession cloth or yarn in excess of his normal requirements

(2) Nothing contained in sub-clause (1) shall be deemed to apply in relation to the possession by any person carrying on the business of banking of cloth or yarn pledged with him by a dealer or manufacturer ”

18 (1) No manufacturer shall unless otherwise authorised by the Textile Commissioner<sup>2</sup> at anytime hold stocks equivalent to more than three months' production of cloth and not more than two months production of yarn not required by him for the purpose of manufacturing cloth produced by him.

Provided that for the purpose of this clause cloth on looms and yarn in process of manufacture into cloth shall not be taken into account

(2) Any cloth or yarn sold to a dealer by a manufacturer and of which delivery has not been taken by the due date<sup>3</sup> shall be deemed to have been held by the dealer from the date of packing

1. Inserted by I & C S, Dept notification No 31-Tex (1)/43, dated the 17th July 1943

2 Substituted by I & C S Dept notification No 34-Tex - A (1)/843

3. Inserted by I & C S Dept notification No 34-Tex. (1)/43, dated the 14th August 1943

19. The Textile Commissioner<sup>1</sup> \* \* \* \* may with a view to securing compliance with this order<sup>2</sup> ;—

(a) require any person to give any information in his possession with respect to any business carried on by that or any other person ,

(b) inspect or cause to be inspected any books or other documents belonging to or under the control of any person ,

<sup>3</sup>(c) “ enter and search, or authorise, \* \* \*<sup>4</sup> any officer of the Central or Provincial Government, to enter, any premises.”

20 If any person with the intent that any provision of this Order may be evaded refuses to give any information lawfully demanded from him under clause 19, or conceals, destroys, mutilates or defaces any books or other documents, he shall be deemed to have contravened the provisions of this order

21. A Textile Commissioner may, with the sanction of the Central Government and by general or special order in writing, authorise any person to discharge on his behalf all or any of his functions under this order other than those specified in clauses 9 and 10.

22 A court trying any contravention of this order may, without prejudice to any other sentence which it may pass, direct that any cloth or yarn in respect of which it is satisfied that such contravention has occurred shall be forfeited to His Majesty.

23 No prosecution for the contravention of any of the

1 The words or such officers as may be specified in this behalf by the Central Government, " Omitted by Dept of Industries and Civil Supplies notification No 34-TeX(1)/43 dated 23rd September, 1943,

2 Substituted by Dept of Industries and Civil Supplies notification No 34-TeX (1)/14/44, dated the 5th February 1944

3 Substituted by Department of Industries & Civil Supplies notification No 34-TeX (1)/43 dated the 23rd August 1943

4 Omitted by Dept of Industries & Civil Supplies No 34-TeX, -(1)/43 dated the 14th September 1943

5 Inserted by Dept of Industries & Civil Supplies notification No. 34-TeX (1)/43, dated the 14th August 1943

provisions of this order shall be instituted without the previous sanction of the Provincial Government.

*Notes.*—Vide Department of Industries and Civil Supplies Notification No. 34—Tex. (15)/43 Dated Bombay the 2nd September 1943 the Textile Commissioner, in exercise of the powers conferred on him by clause 10(a) of the Cotton Cloths and Yarn (control) Order, 1943, notified that the following articles be exempted until further notice from the operations of the order to the extent specified against them —

<i>Items</i>	<i>Nature and Extent of Exemptions</i>
(a) Hosiery	Exemption from the operation of the order subject to the provision that manufacturers of such items must declare the stocks held by them as on 31st July, 1943 of raw materials, in the form of cloth and yarn, not actually in the process of manufacture
(b) Ready made clothing (excluding dhoties and sarees)	
(c) Sewing thread in tube <sup>s</sup> or reels or any other make up of not more than 2,000 yards in length	
(d) Cotton ropes, tapes binding and similar miscellaneous items.	

## GOVERNMENT OF INDIA

DEPARTMENT OF INDUSTRIES AND CIVIL SUPPLIES

No. 265—Tex/43 dated the 23rd October 1943.

In exercise of the powers conferred by sub-rule (2) of rule 81 of the *Defence of India Rules*, the Central Government is pleased to make the following order :—

### **The Cotton Cloth Movement Control Order, 1943:**

1 This Order may be called the Cotton Cloth Movement Control Order, 1943

2 In this Order "cotton cloth" means any kind of cloth manufactured wholly or partly from cotton, but does not include cloth made up into garments, "Textile Commissioner" means the Textile Commissioner, Bombay, and includes any other officer appointed by him to perform the functions of the Textile Commissioner under this order.

3 No person shall offer for transport by rail, or cause to be transported by rail, any consignment of cotton cloth except under and in accordance with the terms of —

(a) a general permit notified by the Central Government in this behalf ; or

(b) a special permit issued by the Textile Commissioner, and countersigned by the Regional Controller of Railway Priorities Bombay, in the Form annexed to this Order.

Provided that this prohibition shall not apply to the transport by rail of cotton cloth not exceeding one and a half maunds in weight by a railway passenger as part of his luggage.

4, Applications for special permits under clause 3 shall be made in quadruplicate in the form annexed to this Order

## GOVERNMENT OF INDIA

### DEPARTMENT OF FOOD

No. 11—Sc (6)/43—1 dated the 24th July, 1943.

In exercise of the powers conferred by sub-rule (2) of rule 81 of the *Defence of India Rules*, the Central Government is pleased to make the following Order :—

### The Gur Control Order, 1943

1. (1) This order may be called the Gur Control Order, 1943.

(2) It extends to the whole of British India

(3) It shall come into force at once

2. In this order unless there is anything repugnant to the subject or context,

(a) "Controller" means the person appointed as Gur Controller for India by the Central Government, and includes any person authorised by the said Controller to exercise all or any of the powers of the Controller under this Order ;

(b) "dealer" means a person dealing in the purchase, sale, or distribution of Gur ;

(c) "producer" means a person carrying on the business of producing Gur ,

(d) "Gur" means articles commonly known as Gur, Gul, jaggery, palmyra jaggery, shakkar and rab, and includes raw sugar as also uncrystallised sugar in any other form comprising of original and convertible molasses and other impurities, inherent or foreign, prepared by boiling cane or palmyra juice ;

(e) "Sugar" means any form of sugar containing more than 90 per cent of Sucrose.

3 The Controller may, from time to time, fix by notification in the Official Gazette for any specified area the maximum prices at which Gur may be sold or delivered, and different rates of prices may be so fixed by him for different areas or different types or grades of Gur

4 Every producer and dealer shall comply with such directions regarding the production, sales, delivery, stocks, distribution or prices of Gur as may from time to time be given by the Controller.

5. If in the opinion of the Controller the unregulated production of Gur in any area is likely to affect adversely the production of sugar in quantity which in his opinion is required for the needs of the community, he may, by order published in the Official Gazette, provide for all or any of the following matters —

(a) prohibit or restrict the export of sugarcane to any place outside that area,

(b) direct that cane growers in that area shall deliver sugarcane to a specified sugar factory or factories in accordance with such conditions in regard to quantity, price, and time of delivery as may be specified by the Controller,

(c) prohibit, or restrict to such quantities or qualities of both as may be specified by the Order, the manufacture of Gur by all or any class of producers in the said area

6 (1) The Controller may, from time to time—

(i) allot quotas of Gur for the requirements of any specified Province or area, or of any specified market, and

(ii) issue directions to any producer or dealer to supply Gur to such areas or markets or such persons or organisations, in such quantities, of such types, or grades, at such times, at such prices and in such manner as may be specified by the Controller

(2) Every producer or dealer shall notwithstanding any

existing agreement with any other person, give priority to, and comply with, any directions issued to him under sub-clause (1).

7. No Gur, shall, after such date and from such area as the Controller may notify in this behalf, be offered for transport by railway or in any manner whatsoever by land or river by a consignor or accepted by a railway servant or by any person whatsoever for transport or transported by rail, road or river except under a permit issued by the Controller in such form and subject to such conditions and in respect of such areas as he may from time to time prescribe.

Provided that this clause shall not apply to the transport by railway or in any manner whatsoever by land or river of Gur (a) by a bona-fide traveller as part of his personal luggage or (b) under and in accordance with military credit notes or (c) under and in accordance with a permit issued by a Provincial authority before the date of this Order

*Explanation* —For the purposes of this clause Gur not intended for the personal use of the traveller and member of his family shall not be deemed to be his personal luggage

8. The Controller may, by notification in the official Gazette, make regulations for carrying into effect the purposes of this Order.

*Notes.*—Vide Notification No. 11—Sc (9)/43, the Gur Controller, in exercise of the powers conferred by clause 7 of this Order notified that no Gur shall on or after the 1st August 1943 be offered for transport by railway by a Consignor or accepted by a Railway servant for transport from any Railway Station not within the U P and N W F P to any place outside the province within which such station is situated except under a permit issued by the Gur Controller for India

## GOVERNMENT OF INDIA

DEPARTMENT OF INDUSTRIES AND CIVIL SUPPLIES

No 2—Tex A/44.—The 7th January, 1944

In exercise of the powers conferred by sub-rule (2) of rule 81 of the Defence of India Rules, and sub-section (4) of section

2 of the *Defence of India Act*, 1939 (XXXV of 1939), the Central Government is pleased to make the following Order :—

**The Foreign Cotton Control Order, 1944.**

1. (i) This order may be called the Foreign Cotton Control Order, 1944.

(ii) It shall come into force at once.

2. In this order except when the context otherwise requires :

(a) "Foreign Cotton" means cotton grown in any country outside India.

(b) "Textile Commissioner" means the Textile Commissioner appointed by the Central Government and includes any officer authorised by him or by the Central Government to exercise all or any of the powers of the Textile Commissioner under this order.

(c) "Schedule" means the schedule annexed to this order

3 Every person carrying on any undertaking which involves the import, purchase, sale or consumption of any foreign cotton shall submit to the Textile Commissioner, Bombay, by the 15th of February 1944 and thereafter by the 15th of every succeeding month a return in the form hereto annexed giving all the particulars required therein

4 No person shall sell or otherwise dispose of, or purchase or otherwise acquire, any foreign cotton of the description mentioned in the Schedule except under and in accordance with the terms of a license granted by the Textile Commissioner or in pursuance of a direction given under clause 5

5. The Textile Commissioner may by order in writing require any person to sell to such other person, such quantities of any foreign cotton of the description mentioned in the Schedule in the possession or under the control of the former, at such price and on such terms as may be specified in the order

6 The Textile Commissioner may, if he has reason to believe that any person has contravened, is contravening, or is likely to contravene any of the provisions of this order :—

(a) require any person to give such information in his possession with respect to any business carried on by that or any other person as he may demand,

(b) inspect or cause to be inspected any books, or documents belonging to, or under the control of any person,

(c) enter and search, or authorise a police officer not below the rank of a sub-inspector to enter and search any premises

7. No person shall with intent to evade the provisions of this order, refuse to give any information lawfully demanded from him under clause 3 or conceal, destroy, mutilate or deface any book or other document kept by him in the course of his business.

### SCHEDULE I

#### GOVERNMENT OF INDIA

DEPARTMENT OF INDUSTRIES & CIVIL SUPPLIES

No 153-Tex (B)/44 dated 12th February, 1944.

In exercise of the powers conferred by sub-rule (2) of rule 81 of the *Defence of India Rules*, the Central Government is pleased to make the following Order, namely :—

**The Indian Woollen Goods (Control) Order, 1944.**

1 (1) This Order may be called the Indian Woollen Goods (Control) Order, 1944.

(2) It extends to the whole of British India

2. In this Order—

“Indian Woollen Goods” means any goods of the description specified in the First Schedule to this Order manufactured in India either wholly or partly from wool, but does not include any hand—woven goods manufactured from handspun yarn,

1 Substituted by Dept of Industries and Civil Supplies notification o 153-Tex (B)1, 1944 dated 26th February, 1944.



"Controlled woollen goods" means Indian Woollen Goods marked "FWMI" or "TMA" ;

"recognised dealer" means a dealer specified for the time being in the Second Schedule to this Order "

3 Every manufacturer of Indian Woollen goods shall comply with the directions which have been or may hereafter be issued by the Central Government regulating the types and specifications of Indian Woollen Goods which may be manufactured by him or prescribing the markings to be made by him on those goods

4 No person other than a recognised dealer shall, except with the permission of the Central Government, sell any Controlled Woollen Goods.

5. (1) No recognised dealer shall sell any Controlled Woollen Goods at a price higher than the maximum retail price fixed by the Central Government.

(2) No person shall sell by retail any Indian Woollen Goods other than controlled woollen goods at a price exceeding the cost of production of the goods by more than 25 per cent thereof.

6. Every recognised dealer shall, if so required by a purchaser of Indian Woollen Goods, give him a duly authenticated cash memo specifying the quantity and price of the goods sold.

7. Every recognised dealer shall prominently display in his shop a list authenticated by the Central Government showing the types and specifications of Controlled Woollen Goods in which he deals and the retail prices thereof fixed by the Central Government, and he shall produce this list on reasonable demand by any member of the public

8 No person shall buy in any one calendar year and no recognised dealer shall sell to any person in any one calendar year more than the following maximum quantities of various types of Controlled Woollen Goods :—

- (a) Knitting Wool, two lbs
- (b) Pullover, jersey or sweater; one of these three types,
- (c) Knitted scarf, one
- (d) Lohi or shawl, one
- (e) Blanket or rug, one,

(f) Suiting of 54 inches width ; four yards.

(g) Suiting of 29 inches width ; Eight yards.

Provided that a person may buy on behalf of any member of his family any quantities of Controlled Woollen Goods which such member is entitled under this Order to buy, and that a recognised dealer may sell such quantities to such person.

9. The Central Government may by Order direct any recognised dealer to furnish information regarding his dealings in, and stocks of Indian Woollen Goods, and such dealer shall comply with such directions

10 Any officer authorised by the Central Government in this behalf may, if he has reason to believe, that any person dealing in any Indian Woollen Goods<sup>1</sup> has contravened or is likely to contravene any provision of this Order:—

(a) inspect or cause to be inspected any books or other documents belonging to or under the control of such dealer,

(b) enter and search, or authorise any person to enter and search, any premises occupied by such dealer and seize, or cause any person to seize, any Indian woollen goods in respect of which he has reason to believe that a contravention of this Order has been committed

#### THE FIRST SCHEDULE

1. Knitting wool
2. Knitted wool, such as sweaters, jerseys, pullovers and scarves.
3. Woven goods, such as suitings, lohies, and shawls, blankets and rugs

#### THE SECOND SCHEDULE.

“Quetta——Messrs Krishna Drapery House.”<sup>2</sup>

#### GOVERNMENT OF INDIA

DEPARTMENT OF SUPPLY.

Notification No SS/135 dated 28th February, 1944.

In exercise of the powers conferred by sub-rule (2) of rule 81 of the *Defence of India Rules*, and in supersession of this Department notification No. SS/135, dated the 5th March, 1943, as amended from time to time, the Central Government is pleased to order —

---

1. Substituted by Dep of Industries and Civil Supplies notification No 153-Tex (B) dated the 28th February 1944,  
2. Inserted by *ibid*

(1) that no person shall sell cycle tyres and tubes at prices higher than those specified in the schedule hereto annexed, and

(2) that this order and schedule shall be displayed prominently on the premises of all persons offering cycle tyres and tubes for sale.

### SCHEDULE

Maximum prices for cycle tyres and tubes

	Covers		Tubes.	
	Sizes.		Sizes.	
	24×1 $\frac{3}{8}$ 28×1 $\frac{1}{2}$ 28×1 $\frac{3}{4}$ 24×1 $\frac{1}{2}$	26×1 $\frac{3}{8}$ 26×1 $\frac{1}{4}$ 26×1 $\frac{1}{2}$	24×1 $\frac{3}{8}$ 28×1 $\frac{1}{2}$ 28×1 $\frac{3}{4}$ 24×1 $\frac{1}{2}$	26×1 $\frac{3}{8}$ 26×1 $\frac{1}{2}$ 26×1 $\frac{3}{4}$
	Wired on each.	Beaded edge each	Each	
	2	3	4	
	Rs. A.	Rs. A	Rs. A	
I. Grade :—				
1. Bates Dunlop	4 4	5 0	2 4	
2. Firestone High speed				
3. Goodyear A.W.T.				
4. India Super				
II. Grade :—				
1. Dunlop Camb-ridge	3 4		2 0	
2. Goodyear Pathfinder				
3. India Signal				
III. Grade :—				
1. Royal Durbar	2 12	3 8	1 12	
2. Takat				
3. Sterling				
War Grade :—				
1. Dunlop			2 0	
2. Goodyear				
3. India				
4. Firestone				
Other Grades :—				
All other brands and types of cycle tyres and tubes	4 4	5 0	2 4	



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